

BOARD OF SUPERVISORS MEETING

February 11, 2020

**"For all items *NOT* on the agenda"**

**(Each Speaker Limited to 3 Minutes)**

**Voluntary Sign-In Sheet**

1. Thomas Mulder
2. BRIAN ROBERTS
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.
- 11.
- 12.
- 13.
- 14.
- 15.
- 16.

Brian Roberts  
PO Box 244  
Blocksburg, CA 95514  
lifeisawesome2018@gmail.com  
(707) 502-7713

December 26, 2019

**VIA EMAIL AND REGISTERED MAIL**

Members of the Board of Supervisors  
County of Humboldt  
825 5th Street, Room 111  
Eureka, CA 95501

Honorable Members of the Board of Supervisors,

I am writing this letter to protest what I believe to be an unjustified tax on my cannabis business.

I have been going through the application process as a cultivator and have encountered what must surely be a flaw in our Measure S. The Measure states that, once a permit has been issued, a tax bill will be generated regardless of whether cultivation has or has not been allowed to occur on the property. In 2016, the County accepted applications for pre-existing cultivation sites for medical marijuana authorized under Proposition 215. I was such a cultivator (APPS#12237 and APN#217-401-011-000 dated December 22, 2016).

My problem with Measure S arises with my 2018 tax bill. According to a letter I received from the County (Attachment A, signed by Tom Ford), it stated that any pre-existing cultivation sites that had not received both a County approval letter and a State approved temporary license would become non-compliant as of June 26th. I promptly cut down my pre-existing site to remain 100% compliant with the County rules, while continuing to grow my cover crop of a variety of plant based nutrients to enhance the soil.

As of August 22, 2018, my application still had not advanced to the stage of having an assigned planner (that did not occur until April 16, 2019 – see Attachment B). I did receive a temporary 30-day County permit for cultivation, which I signed as acceptance and returned the following week, and it had an expiration date of September 30, 2018 (Attachment C). During the same week, I received a Cultivation Tax Bill from the County for the year 2018. I immediately went to the County and spoke with Bob Russell in the Department of Building and Planning. I asked to appeal the Tax Bill for 2018 based on the fact that two months earlier the Department had sent me the letter cited above, and I had cut down my pre-existing site. I subsequently received two extensions from the County for my interim temporary permit, the first issued on September 21, 2018 with an expiration date of December 31, 2018 (Attachment D), and the second extension through December 31, 2019 (Attachment E).

I incorrectly assumed that the 2018 tax bill had been adjusted by Bob Russell because, on April 16, 2019 (Attachment F), I received a letter stating that my application from December 22, 2016 had been accepted for processing and I would be assigned a County planner for the project. In 2019, a County inspector came to my property and assured me that the process was moving forward. My California State license is complete and only awaits a final approval from the County.

On December 12, 2019 I received a new letter stating that my temporary permit will be cancelled for 2020 based on non-payment of the 2018 cultivation tax (Attachment G). I both emailed and called Bob Russell to find out how I could appeal the tax bill for 2018. I received a very quick reply from Mr. Russell, and inquired about the proper channel to appeal this tax bill. He stated that we could discuss it right there on the phone, but that he stood firm that when a temporary permit is issued, an automatic tax bill is generated for that year's cultivation, whether or not it occurred. He also stated that I was fortunate to only owe the cultivation tax for 2018, and not an abatement or settlement fee for planting in May and June. Given that, in a timely manner, I did everything that was required of me, but I was not allowed to grow in 2018, I do not understand why I should have been taxed for that period. I got off the phone feeling a bit cheated that my only appeal was to be heard by one person with the County. All that I ask is to have a fair hearing to appeal a tax that I feel was wrongly placed on my business in 2018. If the County had processed my application in a more timely manner, this would not have been an issue.

Respectfully,

Brian Roberts

| | | |

Brian Roberts  
PO Box 244  
Blocksburg, Ca 95514  
[Lifeisawesome2018@gmail.com](mailto:Lifeisawesome2018@gmail.com)

Feb 1, 2020

**VIA EMAIL and MAIL**

Estelle Fennell  
District 2 Supervisor County of Humboldt  
825 5<sup>th</sup> Street, Room 111  
Eureka, Ca 95501

Honorable Member of the Board of Supervisors,

Hello Estelle and thank you for taking my phone call yesterday regarding this issue. The Building and Planning Department has been given an overwhelming task of permitting cannabis cultivation sites along with their added responsibility of enforcement as well. They are also the final judge in any tax dispute regarding cultivation taxes they issue. It appears that our basic American principle of checks and balance within our Government has been replaced with what we say goes and is final.

In 2018 the Building and Planning Department stepped up enforcement and started sending out abatement letters to hundreds of Humboldt County residents. Their dual split of time between enforcement and processing applications in a timely manner failed to coexist.

My application had a Cultivation Area Verification form done on March 12<sup>th</sup> 2018 and signed by PNS. I was not made aware of this until August 20<sup>th</sup>, 2018. (attached)

Why did it take 5 months to send a letter? The letter stated we had expanded our cultivation area and therefore being denied a permit. I replied the following day. The Cultivation Area Verification was completely wrong.

They calculated my grow area based on LxW of a greenhouse Line 3 of the CAV form. I don't have greenhouses on my property. The main problem here was that they were looking at my neighbors cultivation area. The planner who was doing the verification was looking at both my property and the neighbors and combining them as one. The problem still exists today. As I look over my application online I can see several photos that are in my application that are not my property. Several photos show grading and a greenhouse in which both have never occurred on our property.

The day after the CAV form was sent to me I replied. The following day Aug 22<sup>nd</sup>, 2018. I signed it on Aug 29<sup>th</sup>, 2018 and returned it to Building and Planning at the same time I asked about why my square footage had been reduced from 10,000 sq ft to 9,000 sq ft but I couldn't get an answer. I had three weeks until the offer for a temp permit would expire. So there was no chance to appeal the sq footage within a three week period.

This is just an opinion of mine. Building and planning thought I had expanded my cultivation area and instead of addressing the issue immediately in March when no crops were in the ground they waited five months until crops would be in the ground according to my project description. When they sent the letter they assumed they had enforced another illegal grow and thus therefore deny another cannabis permit. The problem though was that they had been looking at two legal cultivation sites and made the simple mistake. That was corrected in a day when they got my appeal to the Cultivation Area Verification form claiming my expansion.

I signed my Temporary 30 day county permit on Aug 29,2018 expiring on Sep 30,2018.  
This was signed under duress because if I didn't have a county permit my eligibility for a state temp permit would have ceased. The state of California was stopping all issues of Temporary permits on Dec 31. 2018. Humboldt County gave me three months to apply for a state license.

Here are the facts regarding APN217-401-011-00 Apps#12237

Date application was filed	12/22/2016
Cultivation Area Verification form	3/12/2018
CAV form sent out	8/20/2018
CAV response	8/21/2018
Temp Permit letter	8/22/2018
Temp Permit notarized and returned	8/29/2018
Cultivation Tax bill 2018	9/7/2018
Spoke with Bob Russell appeal tax	9/10/2018

**Building and planning could have come inspected my property anytime between 9/10/2018 and the end of OCT 2018 in which I was appealing my cultivation tax for the 2018 year.**

Extension letter til 12/31/2018	9/21/2018
Another extension letter for all of 2019	12/21/2018
Letter of acceptance Planner assigned	4/16/2019

I thought my talk with Bob had resulted in my appeal for the 2018 cultivation tax.  
I had poorly assumed that my continual extensions to my temporary permit was because Bob had corrected the mistake in taxing me for 2018 when our cultivation ceased after the June 26<sup>th</sup>, 2018 letter stating all cultivation done is illegal unless the property holds both a county and state permit.

I am now being judged based on a poor quality photo that appears to have green growth. Yet my answer that we continued to grow our cover crops to enhance the soil was denied by the Building And Planning Department because I didn't state it in my project description that were grow cover crops along with our cannabis cultivation.

Where is the checks and balance in our Government? The same agency issuing the tax is the only agency that can appeal the tax as well. That agency is the Building and Planning department and there appeal process consisted of a 30 minute phone call and two emails. I was judged by the same person who issued the tax on my property. Estelle I thank you for speaking on my behalf to the Building and Planning Department. I only wish we could have a proper form of appealing a tax. Especially one that is equivalent to \$1,000,000 dollar property tax.

Respectfully,

Brian Roberts

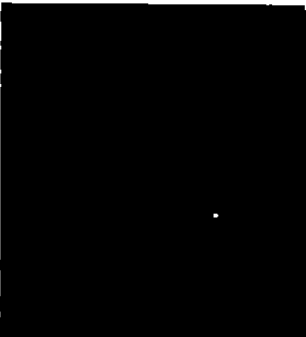


image002.png  
227K

Ford, John <JFord@co.humboldt.ca.us>

Tue, Dec 31, 2019 at 4:58 PM

To: Life IsAwesome <lifeisawesome2018@gmail.com>

Cc: "Bohn, Rex" <RBohn@co.humboldt.ca.us>, "Fennell, Estelle" <EFennell@co.humboldt.ca.us>, "Wilson, Mike" <Mike.Wilson@co.humboldt.ca.us>, "Bass, Virginia" <VBass@co.humboldt.ca.us>, "Madrone, Steve" <smadrone@co.humboldt.ca.us>

Hi Mr. Roberts:

There seems to be some confusion, your application was submitted under ordinance 1.0 and is being processed as such. ~~Interim Permits are only available to 120 applicants.~~ In reviewing your application, the process has had several difficulties. The first was the application was not complete for much of 2017 and the department issued a letter indicating that the application would be deemed withdrawn unless additional information was submitted. The reason that an Interim Permit was not issued in 2017 was because it appeared that the application may be deemed withdrawn due to lack of information and there had been no response to the departments previous requests for information. Additional information was submitted in September of 2017 and processing of the application was started. ~~In 2018, the department identified new cultivation on the property. In August we had discussions with your agent about this new cultivation area and it was explained that this was relocated cannabis cultivation and not new. This resolved the concern with a possible illegal expansion of cultivation area and as a result of that discussion the department issued an Interim Permit. It should be pointed out that you were cultivating prior to having the Interim Permit which is a violation of the County Code and could have been subject to a penalty of \$18,000.~~ You claim the cannabis was removed in June/July, but the aerial imagery does not support this, your agent did not claim there was no cannabis on site when we discussed the new cultivation area in August, and ~~if there was no cannabis on site there would have been no reason to sign the compliance agreement for the Interim Permit.~~ Your Cultivation Operations plan does not indicate that you engage in companion crop practices, but it does state that you plant in early May and harvest in October which is consistent with the aerial images. ~~The Interim Permit is for the whole year even though it was obtained late it is not only for cultivation but also for processing transportation and sale of your product. This is the equivalent of an entire years worth of cultivation.~~

The information indicates that there was cultivation on the property in 2018 and thus Measure S taxes are due.

John H. Ford

[Quoted text hidden]

> <Cannabis Tax Appeal.docx>  
> <Att#A Cannabis Cultivation Update June 26 2018.pdf>  
> <Att#B Accepted for processing.pdf>  
> <Att#D 92118 extension.pdf>  
> <CA State License.pdf>  
> <Att#E 122118 Extension.pdf>  
> <Att#G interim permit denial letter.pdf>  
> <Att#F Processing Application 28months.pdf>  
> <Att#C 30 Day Temp 82218.pdf>

---

**Ford, John** <JFord@co.humboldt.ca.us>

Mon, Dec 30, 2019 at 5:26 PM

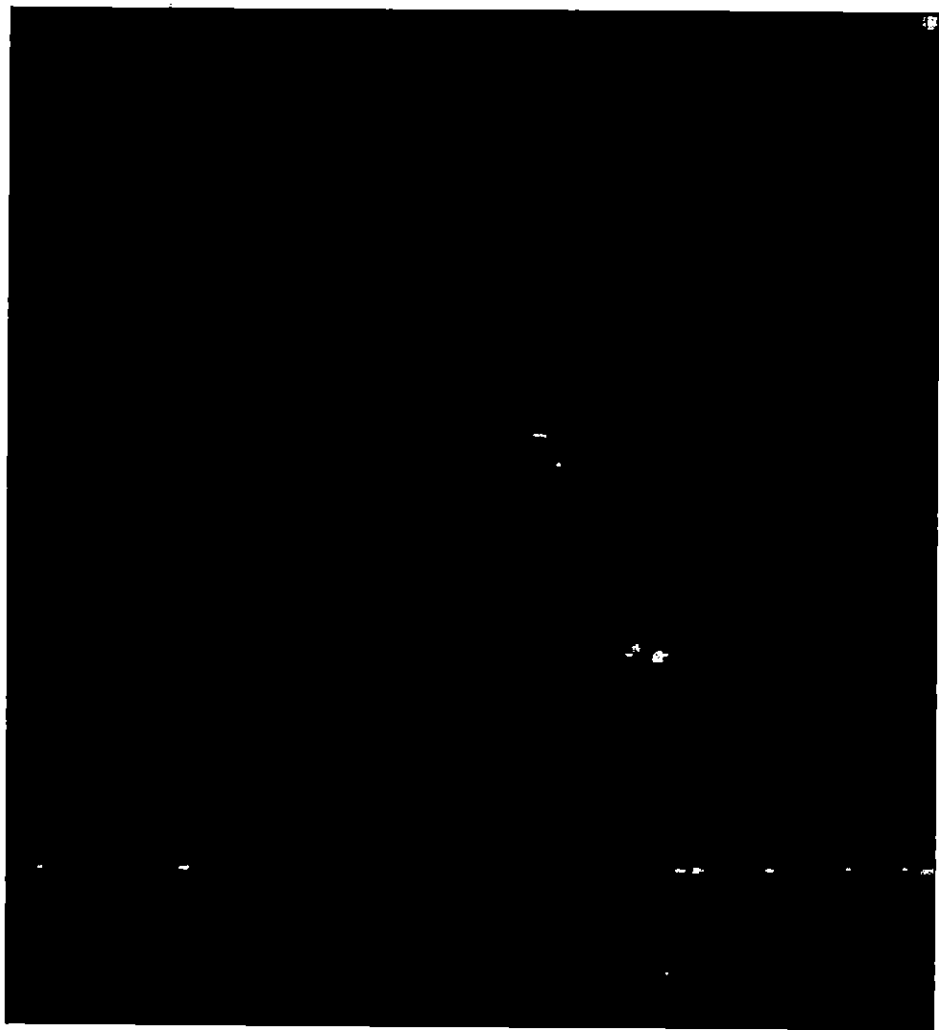
To: "lifeisawesome2018@gmail.com" <lifeisawesome2018@gmail.com>

Cc: "Bohn, Rex" <RBohn@co.humboldt.ca.us>, "Fennell, Estelle" <EFennell@co.humboldt.ca.us>, "Wilson, Mike" <Mike.Wilson@co.humboldt.ca.us>, "Bass, Virginia" <VBass@co.humboldt.ca.us>, "Madrone, Steve" <smadrone@co.humboldt.ca.us>

Hi Mr. Roberts:

As I understand your appeal, you do not believe you owe 2018 Measure S tax because you removed your cannabis upon discovering that you needed both a local permit and state license to cultivate. Your letter states that you cut down your crop around the end of June 2018. As you are aware, the Measure S tax has been based on the entitlement to cultivate. The issuance of the interim permit provided that entitlement. In 2018 the Planning and Building Department was working with Interim Permit holders to adjust their actual cultivation area; if they reduced the size of their cultivation, or ceased cultivating. When we discussed the relocation of the cultivation area for this property we were not made aware that cultivation has ceased. Based upon aerial imagery, the site was cultivated in 2018.

In the December 12, 2019 email to you from Cliff Johnson was this image dated May 2018:

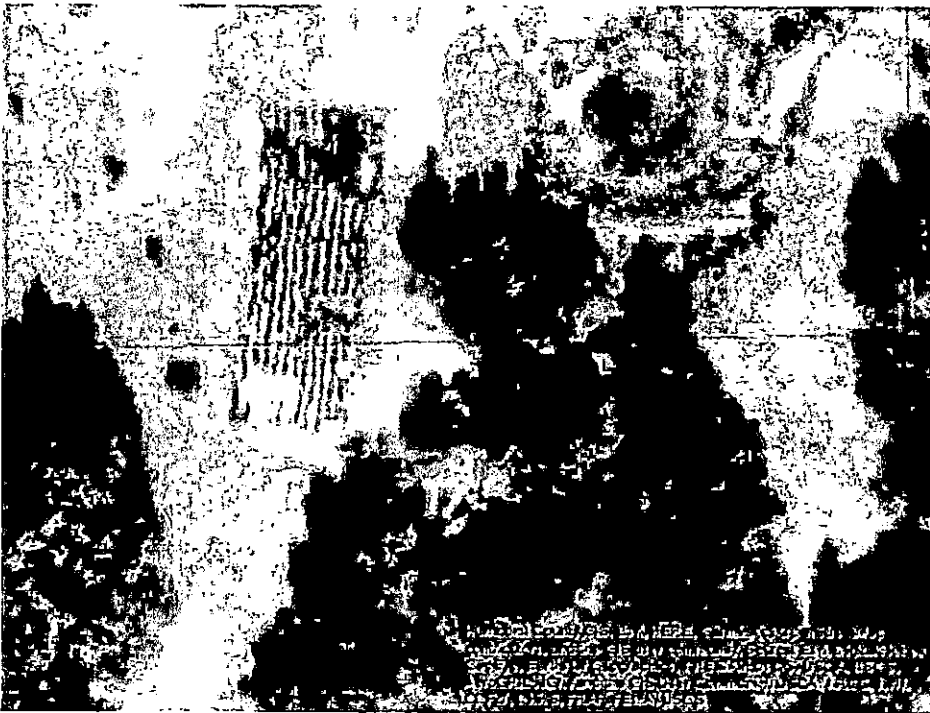


This shows that there was cultivation established.

On September 23, 2018 at approximately 1:00 pm the site looked like this:







The two images have the same planting pattern which would indicate that the crop present in May of 2018 was still there in September of 2018. The crop was harvested by the time images were taken in October of 2018. Based upon this information, the site was cultivated in 2018 and Measure S requires that a tax be paid. In order for the Interim Permit to be renewed, 2018 taxes must be paid.

Please contact me if you have any questions.



John H. Ford  
  
Director  
  
Planning and Building Department  
  
707.268.3738

[Quoted text hidden]			
9 attachments			

# STATUS SHEET

[Print](#)

Date Last Printed 12/7/2017

## PROJECT INFORMATION

Applicant Name	The Homestead Collective Weed Company LLC	Apps #	12237	Assigned Planner	
Application Filed	12/22/2016	Key Parcel Number	217-401-011-000	Case Numbers	SP16-456
30 Day Deadline		Cures Violation No.		Flat or Cost Recovery?	Cost Recovery
Map Index #	Township, Range, Section #				

## REFERRAL AGENCY

Referral Agency Records..

Empty.

[First 50](#) | [Previous](#) | [Next](#) | [Last](#) | [All](#) | [Search Table](#)

## ENVIRONMENTAL REVIEW

Environmental Rev. Req'd?	SCH Review #
NegDec/Notice of Prep Mailed	NOD / NOE Mailed

## HEARING OFFICER

Decision Maker? ☐ Administrative Review ☐ Board of Supervisors ☐ Planning Commission ☐ Zoning Administrator

## HEARING PACKET MAILED

Applicant ☐ Agent ☐ Owner ☐ Other ☐

## NOTICE

Legal Notice Published

## DECISION

Decision ☐ CCC Appeal Notice ☐ Decision Mailed ☐ Appealed ☐ Effective ☐ Expires ☐

## PARCEL/FINAL MAP

Planning Signed Off ☐ Map No. ☐ Book ☐ Page ☐ Map Recorded ☐

## RECORDED DOCUMENTS

Ordinance / Resolutions Numbers ☐ Ordinance or Resolution Effective Date ☐

Recorded Documents

Recorded Document Notes



## County of Humboldt

### Planning and Building Department

3015 H Street, Eureka, California 95501  
FAX: (707) 445-7446 PHONE: (707) 445-7245

### Cannabis Cultivation in 2018

We are halfway through 2018 and want to update you on some of the most important actions and considerations important to you at this current time.

**I. The update of the Commercial Cannabis Land Use Ordinance has been adopted by the Board of Supervisors and is being implemented.**



New applications can now be submitted. The Planning and Building Department will not accept incomplete applications and requires that prior to application acceptance the applicant participate in an application assistance meeting. You can schedule an Application Assistance meeting by calling the Planning and Building Department at (707) 445-7245.

**II. It is vital to understand the context of the Ordinance has also changed.**

On January 1, 2018 the industry regulation changed when State Licensing was implemented. Our Ordinances and policies are now implemented and enforced in that context. ~~When implementing our original CMMLUO, there existed some latitude to allow pre-existing cultivation to continue while permit applications were being processed as the State developed its Cannabis Licensing program.~~ This condition no longer exists. In today's regulatory scheme, cannabis cultivation requires a local permit and a state license to be deemed legal. All other cultivation is illegal.

**III. Here are some key things to be aware of:**

- While the evidence of a pre-existing cultivation site will still be evaluated as part of the 2.0 permit application process, there is currently NO compliant path to cultivating cannabis on these sites before the permit has been approved. Similar to NEW cultivation areas, there can be NO cannabis cultivation on pre-existing sites UNTIL BOTH the County Permit is approved AND the State License has been granted.
- There is no legal outlet for unpermitted cultivators to sell products, thus sales of unpermitted cannabis flower/extracts etc. are black market sales.
- There will NOT be affidavits or Interim Permits for pre-existing cultivation permits applied for under Cannabis Ordinance 2.0.

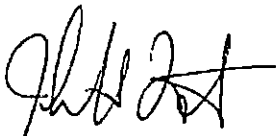
- All applications under Ordinance 1.0 will be processed to either decision or the limit which the submitted information allows before beginning evaluations on Cannabis Ordinance 2.0 projects.
- Any property with unpermitted cannabis cultivation enforcement actions resulting in Notices to Abate and/or Notices of Violations will not be eligible for 2.0 application submission until the Notices are cured by all corrective actions, including site restoration and fines/penalties paid.

#### **IV. Interim Permit Update**

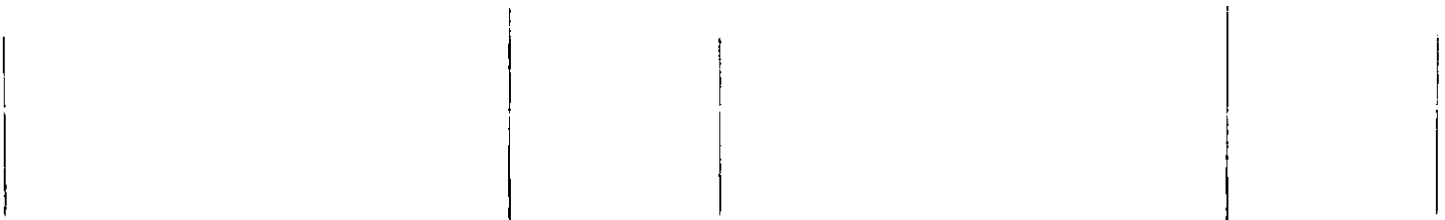
If you were issued an Interim Permit under 1.0 with an expiration of June 30, 2018 the expiration date is being extended to September 30, 2018.

Part of regulating the cannabis industry is enforcing against those who operate in violation of the law. You will see increasing coordination between the Planning and Building Department, the Sheriff and California Department of Fish and Wildlife to enforce against sites that are in violation of the law. In addition the Planning and Building Department will be increasing the number of Notices to Abate and Notices of Violation for sites with unpermitted cannabis cultivation, grading and cultivation related structures in the coming days and weeks.

Thank you for your efforts to be in compliance, and for your patience as we work to make this program a success.



John Ford, Director  
Planning & Building Department  
County of Humboldt



# Cultivation Area Verification (CAV)<sup>1</sup>

Apps# 12237 / APN: 217-401-011

1) Amount and type applied for:

Application Outdoor Square Footage: 10,000  
Application Mixed Light Square Footage: \_\_\_\_\_

2) Enter amount of verified cultivation area:

Existing Outdoor Square Footage: 6,989

Existing Mixed Light Square Footage: \_\_\_\_\_

3) Enter base year date and source (e.g. 10/27/15 – TerraServer or May 28, 2014 – Google Earth etc)

Base Year Date and Source: 2015/11/04 TERRASERVER  
(LWN GREENHOUSE MEASUREMENT)

4) Enter person performing verification:

Verified By: PNS

5) Enter date of verification (e.g. current date)

Date Verified: 2018/03/12

6) Attach Evidence of Verification (e.g. TerraServer photos w/ polygons etc.)

7) Write "CAV" on the outside of the project file.

8) Please note any observed expansions, relocations, timber conversions, or ground disturbances:

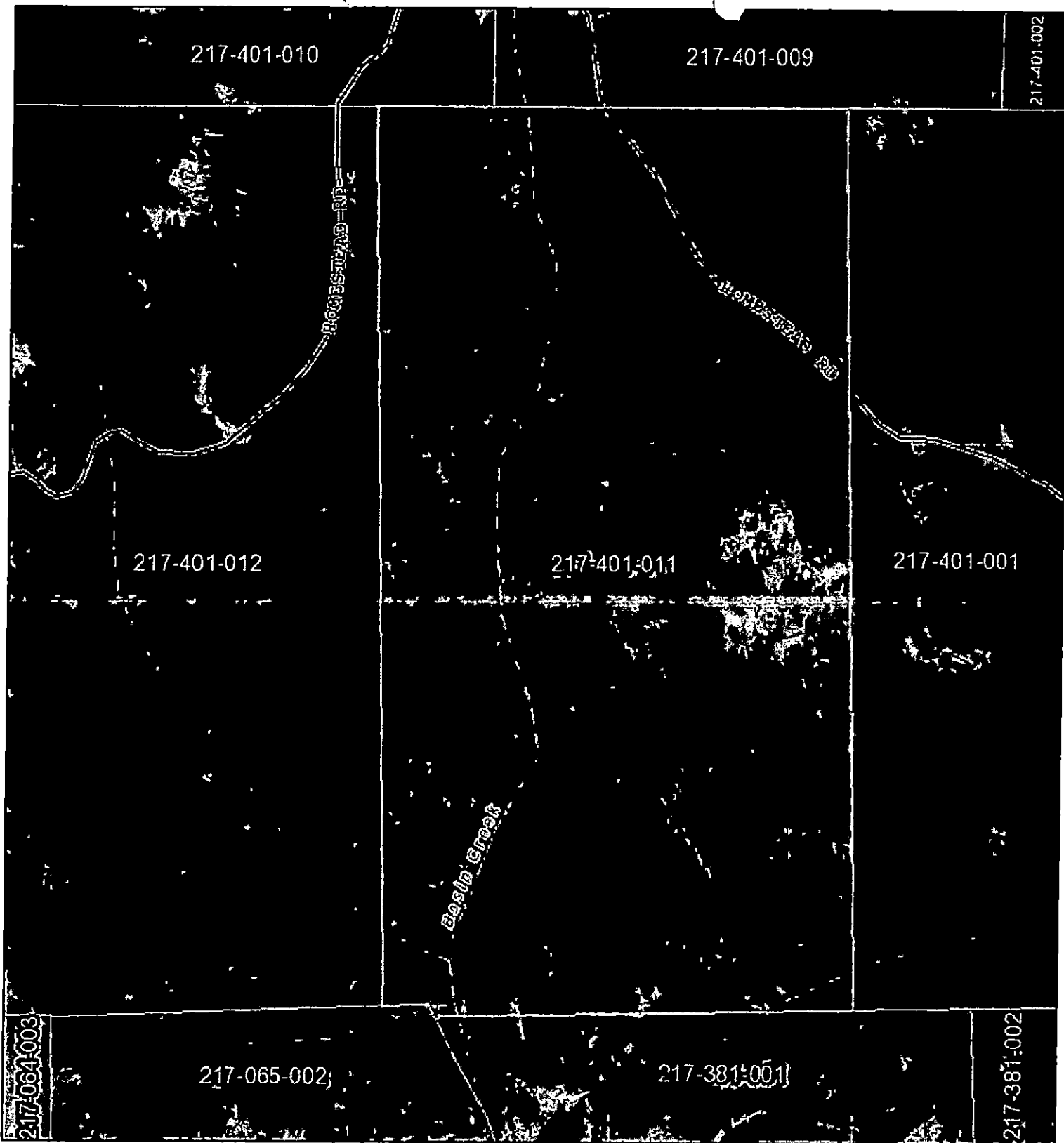
Notes: \* PARCEL MAY BE OFF BY MORE THAN 200 FT.

\* EXPANSION 2018/02/08 OF 8,011 FT<sup>2</sup>

\* FOND ADDED BETWEEN 2006 & 2009

<sup>1</sup> (55.4.7 Definitions) "Cultivation Area" means the sum of the area(s) of cannabis cultivation as measured around the perimeter of each discrete area of cannabis cultivation on a single premises, as defined herein. Area of cannabis cultivation is the physical space where cannabis is grown and includes, but is not limited to, garden beds or plots, the exterior dimensions of hoop houses or green houses, and the total area of each of the pots and bags containing cannabis plants on the premises. The cultivation area shall include the maximum anticipated extent of all vegetative growth of cannabis plants to be grown on the premises.

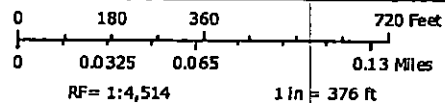
40.2756, -123.6815



## ArcGIS Web Map

Humboldt County Planning and Building Department

<b>Highways and Roads</b>	Private or Unclassified	Intermittent
Principal Arterials	Major River or Stream	Subsurface
Minor Arterials	Blue Line Streams	City Boundary
Major Collectors	Perennial 1-3	Counties
Minor Collectors	Perennial >4	Parcels (Owners)
Local Roads		Parcels (Owners, no labels)



Printed: March 12, 2018

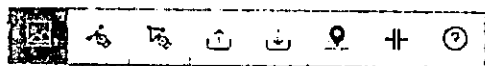
Web AppBuilder 2.4 for ArcGIS

### Map Disclaimer:

While every effort has been made to assure the accuracy of this information, it should be understood that it does not have the force & effect of law, rule, or regulation. Should any difference or error occur, the law will take precedence.

Source: Humboldt County GIS, California Coastal Commission GIS/Mapping Unit, 2014, Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, FRAP, FEMA, USGS

Latitude: 40.2756 Longitude: -123.0000



## Image Drawer

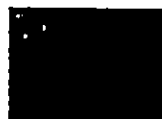
Date Range



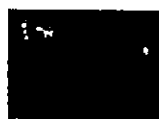
All Images



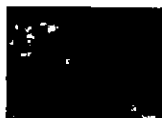
2013-02-02 (0.50m)



2017-12-21 (0.50m)



2017-03-14 (0.50m)



2017-03-12 (0.50m)



2016-06-03 (0.50m)



2016-06-02 (0.50m)



2016-06-22 (0.50m)



2016-05-09 (0.50m)



2015-11-04 (0.50m)

1.

1. 690
2. 900 (45'x20')
3. 1,590
4. 3,809

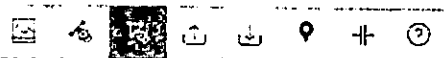
Approximately 6,989  
square feet exiting OD  
cultivation area

2.


3.

4.

Latitude: 40.2756 Longitude: -123....  



## Area Measurement

 Start Draw

☒ Edit Draw:

 Delete Draw

Border Color 



⇒ Color 



### Border Trust



Unit of Measurement:

Feet (ft)

### Information

Number of Points

This line 31.50¢

Total Liner:	137.96 ft.
--------------	------------

This Area : 953.80 ft<sup>2</sup>

Total Area	963.80 ft <sup>2</sup>
------------	------------------------

W. X. OAKS





HUMBOLDT COUNTY  
PLANNING AND BUILDING DEPARTMENT  
CANNABIS PLANNING DIVISION  
3015 H STREET, EUREKA, CA 95501 ~ PHONE (707) 445-7541

---

The Homestead Collective Weed Company LLC

Brian Roberts

P.O. Box 244

Blocksburg, CA 95514

---

4.16.2019

RE: Application (APPS#): 12237

Key APN: 217-401-011

Dear Applicant,

Thank you for the application submittal mentioned above. We have reviewed your initial application submittal and it has been accepted for processing as of the date of this letter. We have referred the project to the affected reviewing agencies based on the project description shown on the enclosed Project Transmittal.

Please review the project description. If you believe it to be incorrect or wish to make any changes please contact us as soon as possible, as this is the description from which we will be working.

The four milestones for all projects are *Application, Processing, Decision* and *Implementation*. This update letter confirms that you are now in the *Processing* step. In the course of processing your application it may be necessary for you to submit one or more of the items listed on the Application Submittal Requirements Checklist that were not required as part of your initial application. We will request this information before scheduling final action on the application if needed to respond to questions from referral agencies or to conduct an environmental review of the project. Also, you may be asked to clarify, correct or otherwise supplement the information already provided.

**The cannabis permit referral process requires a site inspection. These inspections are scheduled through the Planning and Building Department. Your permit application cannot be completed without the required inspection.**

**IT IS YOUR RESPONSIBILITY AS THE APPLICANT/AGENT TO SCHEDULE THIS INSPECTION. Please contact the Planning and Building Department at 707-445-7245 at your earliest convenience to schedule your inspection to avoid a delay in processing your cannabis permit.**

Cc: Owner, Agent

Enc: Project Transmittal, CalFire Basic  
Project Review Input

---



**COUNTY OF HUMBOLDT**  
**PLANNING AND BUILDING DEPARTMENT**  
**CURRENT PLANNING**  
3015 H STREET, EUREKA, CA 95501 ~ PHONE (707) 445-7245

4/16/2019

**Project Referred To The Following Agencies:**

AG Commissioner, County Counsel, District Attorney, Environmental Health, Sheriff, PW Land Use, Building Inspections, Alderpoint VFD:FPD, RWQCB, NCUAQMD, Southern Humboldt Joint Unified:School District, Cal Fish & Wildlife, CalFire, CA Division of Water Rights, Bear River Band, NWIC

**Applicant Name** The Homestead Collective Weed Company LLC **Key Parcel Number** 217-401-011-000

**Application (APPS#)** PLN-12237-SP Historic Planning **Assigned Planner** Keenan Hilton

Please review the above project and provide comments with any recommended conditions of approval. To help us log your response accurately, please include a copy of this form with your correspondence.

Questions concerning this project may be directed to the assigned planner for this project between 8:30am and 5:30pm Monday through Friday.

County Zoning Ordinance allows up to 15 calendar days for a response. If no response or extension request is received by the response date, processing will proceed as proposed.

☐ If this box is checked, please return large format maps with your response.

**Return Response No Later Than:** 5/1/2019

Planning Commission Clerk  
County of Humboldt Planning and Building Department  
3015 H Street  
Eureka, CA 95501  
Email: PlanningClerk@co.humboldt.ca.us Fax: (707) 268 - 3792

**We have reviewed the above application and recommend the following (please check one):**

- ☒ Recommend Approval. The Department has no comment at this time.
- ☐ Recommend Conditional Approval. Suggested Conditions Attached.
- ☐ Applicant needs to submit additional information. List of items attached.
- ☐ Recommend Denial. Attach reasons for recommended denial.

**Other Comments:** SIUR H100077

**DATE:**

4.17.19

**PRINT NAME:**

Dyana McPherson



HUMBOLDT COUNTY  
PLANNING AND BUILDING DEPARTMENT - PLANNING DIVISION  
3015 H STREET, EUREKA, CA 95501 - PHONE (707) 445-7245

## PRE-SITE INVESTIGATION FORM

THIS IS NOT A PERMIT DOCUMENT

### APPLICATION INFORMATION

Name The Homestead Collective Weed Company LLC  
Address 1 Brian Roberts Address 2 PO Box 244  
City Blocksburg State CA Zip 95514

### OWNERS NAME AND MAILING ADDRESS

Name: Roberts, Brian Email  
Address 1 Address 2  
City Blocksburg State CA Zip 95514

### SITE INFORMATION

Parcel Number 217-401-011-000 Application Number PLN-12237-SP  
Street Address 5576 Homestead Rd City Blocksburg State CA Zip

### PRESITE INVESTIGATION

Project is already started

Soil report is required due to

Project is in flood zone A per

Flood elevation certificate required

Plans stamped by a licensed person required

SRA water storage requirements apply

Appr. SRA req. need to be shown on plot plan

Driveway slope appears to be

Grading permit required

Incomplete submittal Construction Plan

Erosion and sediment control measures req.

AOB Inspection

Project appears to be within wet area

FIRM panel number

Is 2nd Flood Certificate Required?

SRA requirements apply

Lot created prior to 1992

Plot plan incomplete, must be revised Yes

Submit engineered foundation for

Applicant must locate property lines

Other concerns exist

### Inspector Notes

Planning Referral

5-15-19

db

- revise and resubmit plot plan showing water storage tanks in the proper locations
- class III drainage flows into existing pond

- Note: existing and proposed structures used in the cannabis operation shall not be used/occupied until all required permits have been obtained.

- No wet areas within 200 feet of cannabis

- appears to be wet areas No

- Recommend approval after plot plan has been revised and resubmitted based on the condition that all grading, building, plumbing, electrical and mechanical permits and/or Agricultural Exemption are obtained

QUESTIONS? Please contact the County of Humboldt Building Division

## Assigned Planner information

Individual

Meghan Ryan

United States

Home Phone:7074457541

Work Phone:7074412622

E-mail:mryan2@co.humboldt.ca.us

## Application Information

### PLANNING

Project Type Primary:

Special Permit (CCLUO1)

Case Type 1:

SP1

Slope Stability:

3

Overlays/Combining Zone:

FR-B-5(40)

Cannabis Project:

Yes

Project Location:

The project is located in Humboldt County, in the Blocksburg area, on the North and South side of Homestead Road, approximately 1 miles West from the intersection of Browning Road Road and Homestead Road, on the property known as 5576 Homestead Road.

CEQA Exemption Section:

Environmental Review Required

Plan Designation:

Residential Agriculture (RA), 2017 General Plan, Density: 40 acres per unit, Slope Stability: High Instability (3).

File Location:

Main Files

### Zoning Information

Present Zoning:

Forestry Recreation (FR), Minimum building site area is 40 acres (B-5(40))

### CANNABIS

Cannabis Project Status:

Existing

Compliance Agreement:

Unknown

Regional Board Enrollment Required:

Unknown

Cultivation:

Yes

Cultivation Outdoor:

9000

Processing:

Yes

Cultivation Area:

9000

Eligible for Interim Permit:

Yes

Interim Permit Status:

Issued 2.0

Interim Permit Outdoor Sq Ft:

9000

Issued:

08/29/2018

Interim Permit Expiration:

12/31/2019

Cultivation – Outdoor:

Yes

## Board of Supervisor, Chair Estelle Fennell Is a Liar & Thinks Herself Above The Law

In late July 2018, Jamie and Anna Sachs a young couple with two pre-school children and a mortgage received a *Notice of Violation and Proposed Administrative Civil Penalty [Humboldt County Code 352]* and a *Notice of Nuisance [Humboldt County Code 351]*. They made an appointment to visit Supervisor Estelle Fennell at her office. The Sachs presented the penalty and nuisance notices to Fennell. The third paragraph on the first page of the *Notice of Violation and Proposed Administrative Civil Penalty* cites *Humboldt County Code 352-5* which Fennell on June 27, 2017 voted to codify into law:

*352-5. Imposition of Administrative Civil Penalty.*

*(a) Any and all Violations may be subject to an administrative civil penalty of up to ten thousand dollars (\$10,000.00), or as allowed by applicable state law, whichever is higher, per calendar day up to and including the ninetieth (90th) calendar day. Administrative civil penalties may be imposed by the Code Enforcement Unit as set forth in this Chapter or the court if the Violation requires court enforcement without an administrative process. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017)*

Fennell looked at the Sachs' *Notice of Violation and Proposed Administrative Civil Penalty* and pretended to be surprised saying, "Oh my God, \$10,000.00 a day. That seems excessive. I will look into this for you." Fennell pretended to comfort the young mother by rubbing her shoulders saying, "Don't worry every thing will be okay." "I will look into this right away." "I am here for you."

Lacking a conscious Fennell boldly lied to this young family. She pretended to care. Withholding the truth, Fennell failed to tell the Sachs

that one year before they received the penalty notice she assisted in the drafting of the \$10,000. per day penalties and then voted it into law.

At a public meeting aired on KMUD on August 23, 2018, John Ford, Director of the Planning Department was asked what legal authority the Planning Department relied on to vote into law the excessive \$10,000 per day penalty and 10 days abatement period. Mr. Ford said he did not vote the excessive fines into law. He pointed to Fennell and said, "Ask Estelle, she voted it into law."

Asked the same question Estelle Fennell became very irritable. She looked down twiddling her index finger next to her head and said she had to think. The person asking the question told Fennell, "I don't want you to think. I want you to answer the question." Fennell obviously angry looked up and said "the constitution" gave her the authority to impose excessive fine. She then said, "I (Estelle Fennell) wanted to get people's attention." *(A public record of this meeting exist - KMUD archive Aug. 23, 2018. People downloaded the Aug. 23<sup>rd</sup> KMUD archive. The above dialog was videoed by people at the meeting.)*

On August 23, 2018, the Sachs were home listening to Estelle Fennell on KMUD. Fennell's answer shocked them. It was only two weeks earlier at her office that she pretended to be surprised that the Planning Department was imposing \$10,000 per day penalties. She was deceitful because she voted Humboldt County Code 352-5 into law. What infuriated the Sachs most is that Fennell pretended to be sympathetic and calmly lied to them knowing they were frightened about losing their property.

**Estelle Fennell is a self-serving liar & thinks the public stupid.**

The Constitution does not give Fennell the authority to impose excessive fines, as she asserted on August 23<sup>rd</sup>. In fact both the state and federal Constitutions prohibit excessive penalties. With no regard for truth or law, Fennell boldly lied to the public saying that the "constitution" gave her the authority to impose excessive fines. The public witnessed her arrogance of thinking herself above the law and her thinking the public stupid.

Fennell took an oath to uphold our California and United States Constitutions. Not only did she fail to uphold either Constitution, she

drafted and voted into law *Humboldt County Code 352* which directly violate the 8<sup>th</sup> Amendments to our state and federal Constitutions. Why? Are the penalties a source of funding the county's retirement plans? Read on.

## STATE & U.S. CONSTITUTIONS PROHIBIT EXCESSIVE PENALTIES

It is **illegal and unconstitutional** for the Board of Supervisors to impose excessive fines and penalties of \$10,000.00 per day and mandate an unreasonable abatement time of 10 days.

The 8<sup>th</sup> Amendments of the state and federal Constitutions prohibits excessive fines. *Timbs v. Indiana*, 586 U.S. \_\_\_\_ (2019), was a United States Supreme Court case in which the Court dealt with the applicability of the excessive fine clause of the Constitution's 8<sup>th</sup> Amendment to state and local governments. In February 2019, the Court unanimously ruled that the 8<sup>th</sup> Amendment's prohibition of excessive fines is an incorporated protection applicable to the states and counties under the 14<sup>th</sup> Amendment. The ruling in *Timbs v. Indiana* applies to civil and criminal fines and penalties.

Despite the clear language in the U.S. Supreme Court's ruling, the Chair of Board of Supervisors, Estelle Fennel has taken no action to revoke and annul its June 27, 2017 vote to amend and codify *Humboldt County Code 352*. (Imposition of Administrative Civil Penalty - \$10,000 per day.)

And where is County Counsel Jeffrey S. Blanck? On his [humboldtgov.org](http://humboldtgov.org) website Blanck writes:

"The Office of the County Counsel is the **legal advisor** to the County of Humboldt. The Office provides legal advice and representation to the Humboldt County Board of Supervisors, County Elected and Appointed Officials and departments..." (Emphasis Supplied.)

Did Mr. Blanck, the legal advisor to the Board of Supervisors, properly advise the Board prior to the June 27, 2017 vote to amend and codify

**Humboldt County Code 352?** What advise did he give the Board after the U.S Supreme Court ruling in February 2019? Is Mr. Blanck acting in concert with Board of Supervisors? Is his conduct or lack thereof grounds for disbarment? Surely, this is a matter that should be investigated by the California State Bar Association.

Under the *California Rules Professional Conduct* an attorney can not advise or assist in the violation of any law. Specifically:

***Rule 1.2.1 Advising or Assisting the Violation of Law***  
***(a)A lawyer shall not counsel a client to engage, or assist a client in conduct that the lawyer knows is criminal, fraudulent, or a violation of any law, rule, or ruling of a tribunal. (Emphasis supplied).***

Clearly, *Humboldt County Code 352* is a violation of State law, it violates the Constitution's 8<sup>th</sup> Amendment and is an outright violation of the U.S. Supreme Court ruling in *Timbs v. Indiana*. Where is County Counsel Jeffrey S. Blanck? What is his motive for lack of proper legal advise to the Board of Supervisors?

Under the protection of the state and federal Constitutions Humboldt's Board of Supervisors and the Planning Department can not impose excessive fines of \$10,000 per day. As a matter of law a court can not enforce any of the *Compliance Agreements* between property owners and the Planning Department. Why? A court can not enforce an illegal agreement/contract. All *Compliance Agreements* are void as a matter of law because they are based on illegal and unconstitutional excessive fines. Furthermore, Humboldt County's excessive fines contradicts California state laws.

### **California State Law and California Constitution**

California is divided into counties which are legal subdivisions of the State. The state governs all counties, including Humboldt. Article 11 of the California Constitution establishes the State's governing authority over local government. Section 7 of Article 11, states:

***A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances***



***and regulations not in conflict with general laws.***

In Estelle Fennell's District the Planning Department has served over a 1000 *Notice of Violation and Proposed Administrative Civil Penalty [Humboldt County Code 352]* and *Notice of Nuisance [Humboldt County Code 351]*.

The Board of Supervisor's June 27, 2017 vote to amend and codify Humboldt Code 352-5 (Imposition of Administrative Civil Penalty - \$10,000 per day.) is **in conflict with "general laws"** of the State, specifically California Government Codes 53069.4. and 25132 and therefore void as a matter of law.

Relevant section of 53069.4 provides:

*(a) (1) The legislative body of a local agency, . . . may by ordinance make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty. . . Where the violation would otherwise be an infraction, the administrative fine or penalty shall not exceed the maximum fine or penalty amounts for infractions set forth in Section 25132 and subdivision (b) of Section 36900.*

*(2) The administrative procedures set forth by ordinance adopted by the local agency pursuant to this subdivision shall provide for a reasonable period of time . . .to correct or otherwise remedy the violation prior to the imposition of administrative fines or penalties...*

Subsection (a) and (c) of Cal. Government Code 25132 provides:

*(a) Violation of a county ordinance is a misdemeanor unless by ordinance it is made an infraction. . .*

*(c) Notwithstanding any other provision of law, a violation of local building and safety codes determined to be an infraction is punishable by (1) a fine not exceeding one hundred dollars (\$100) for a first violation; (2) a fine not exceeding five hundred dollars (\$500) for a second violation of the same ordinance within one year; (3) a fine not exceeding one thousand dollars (\$1,000) for each additional violation of the same ordinance within one year of the first violation.*

The California Court of Appeals in *People vs. Minor*, 96 Cal.4th 29 held,

*"Read together, these State statutes (Cal. Govt. Codes 53069.4 and 25132) do the following: First, they create a **default classification of misdemeanors for code violations**; second, they authorize counties to classify the violations as infractions if they choose to do so; and, finally, they set the respective punishments for both infraction and misdemeanor code violations."*

In short the Courts have ruled that any and all county code violations are misdemeanors. **The maximum fine for a misdemeanor in California is \$1,000.00.** By default, any and all code violation of Humboldt's Planning Department are misdemeanors with a maximum penalty of \$1,000.00 if the violation is not removed within reasonable time. It is important to note that reasonable time to remove the violation must be exercised prior to an imposition of fines.

On June 27, 2017, Humboldt Board of Supervisors chaired by Estelle Fennell arbitrarily decided it would contradict State law, violate State and Federal 8<sup>th</sup> Amendment prohibitions, ignore the rule of the California Supreme Court and illegally impose excessive fines. Why is the Board of Supervisors ignoring the law. There is evidence showing that penalties collected are paid into the County's retirement fund. For example Sheriff Honsal's annual pay for 2018 was \$117,151. When benefits and pension is added his annual pay is \$240,375. All board of supervisors likewise

enjoy hefty benefits and retirement plans. Only recently Fennell voted to give herself a pay increase from \$85,000 to \$97,000.

### **Illegal Conduct Designed to Fund County Retirement Plans**

On June 27, 2017 the Board of Supervisors voted to amend and codify *Humboldt Code 352 (Imposition of Administrative Civil Penalty)* knowing that it would be in conflict with California Governments Codes 53069.4 and 25132 in that it imposes excessive fines and unreasonable time to abate code violations. The conflicts and contradictions between *Humboldt Code 352* and *California Governments Codes 53069.4 and 25132* are highlighted below in bold print:

*(a) Any and all Violations may be subject to an administrative civil penalty of up to ten thousand dollars (\$10,000.00), or as allowed by applicable state law, whichever is higher, per calendar day up to and including the ninetieth (90th) calendar day.*

*Administrative civil penalties may be imposed by the Code Enforcement Unit as set forth in this Chapter or the court if the Violation requires court enforcement without an administrative process. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017). (Emphasis supplied).*

*(b) In the case of a continuing Violation, the Code Enforcement Unit or the court shall provide the Responsible Party with a reasonable period of time, not to exceed ten (10) calendar days, to correct or otherwise remedy the Violation prior to the imposition of the administrative civil penalty, except in situations in which the Violation creates an immediate danger to the health, safety and/or general welfare of the public. (Ord. 2138a, §1, 12/3/1996; Ord. 2272, 4/23/2002; Ord. 2576, § 5, 6/27/2017). (Emphasis supplied).*

*Humboldt County Code 352* unequivocally violates the 8<sup>th</sup> Amendment s of the State and U.S. Constitutions. *Humboldt County Code 352* is in direct conflict with California Government Codes 53069.4 and 25132. The Court of Appeals in *People vs. Minor*, 96 Cal.4th 29 ruled that, ' "Local legislation in conflict with general law is void. Conflicts exist if the ordinance duplicates [citations], contradicts [citation], or enters an area fully occupied by general law, either expressly or by legislative implication [citations]." ' ' (Morehart v. County of Santa Barbara, 7 Cal.4th 725.)

*Humboldt County Codes 351 and 352* "contradicts" and "enters an area fully occupied by general law" of California Government Codes 53069.4 and 25132. Most important, *Humboldt Codes 351 and 352* violate the highest law of the land, namely the 8<sup>th</sup> Amendments of state and federal Constitutions. It appears County Counsel Jeffrey S. Blanck failed to give proper legal advise to the Board of Supervisors and the Planning Department. Certainly Blanck's office reviewed *Humboldt County Codes 351 and 352* prior to the Board's June 27, 2017 vote. If Blanck gave the Board proper legal advise why did it ignore it? Or did Blanck assist the Board in violating the law?

Bottom line? The excessive \$10,000 per day fines are illegal and unconstitutional. The members of Humboldt County Board of Supervisors collectively are acting as though they are above the law. They are ignoring the U.S. Supreme Court's February 2019 ruling which unequivocally holds that excessive fines are unconstitutional.

Why does the Board of Supervisors refuse to uphold State and Federal Constitutions? Why do they continue to dismiss the U.S. Supreme Court ruling, which holds that excessive penalties is a Constitutional violation of the 8<sup>th</sup> and 14<sup>th</sup> Amendments? Is it because they are self-servingly rewarding themselves? From the collected illegal excessive fines, they are paying salary increases and funding their pension plans. Meanwhile Humboldt County is projected to spend more than it brings in for each of the next seven years, bringing its fund balance to negative-\$20.5 million by 2023. Pension rates are growing in the wake of California Public Employees Retirement System lowering its expected rate of return,

which puts the burden on local municipalities to contribute increasingly more into their own retirement funds. County Counsel Jeffery Blanck's advise?

On June 27, 2017 the Board of Supervisors created an opportunity to increase their pension plans' rate of return. Each member, knowing it illegal, voted to amend and codify *Humboldt Codes 352* (Imposition of Administrative Civil Penalty - \$10,000 per day.) Their vote was self-serving because each understood their burden to fund the county's retirement fund. The illegal and unconstitutional penalties collected from property owners are paid into the retirement funds for the Board of Supervisors and other county employees. If a member in 2017 did not to understand his or her vote was illegal, then U.S. Supreme Court ruling in February 2019 made it clear their action was illegal and required that they repeal *Humboldt Code 352*. It is now February 2020 and the Board of Supervisors has not repealed *Humboldt Code 352*. Property owners are still receiving illegal *Notice of Violation and Proposed Administrative Civil Penalty [Humboldt County Code 352]* and a *Notice of Nuisance [Humboldt County Code 351]*.

And where is County Counsel Jeffery Blanck?

As a matter of law the Board of Supervisors, Humboldt County's legislators, must repeal *Humboldt County Code 352*.

## MAKE YOUR VOTE COUNT

VOTE OUT MEMBERS WHO VOTED TO AMEND AND CODIFY *HUMBOLDT COUNTY CODE 352* WHICH IS DESIGNED TO FUND THEIR RETIREMENT PLANS.

DO NOT VOTE FOR INCUMBENTS OR ANY CANDIDATE WHO WILL NOT REPEAL *HUMBOLDT COUNTY CODE 352*.

EMAIL ALL INCUMBENTS AND CANDIDATES ASKING WHETHER THEY INTEND TO REVOKE *HUMBOLDT COUNTY CODE 352*. KEEP RECORDS OF ALL CONVERSATIONS AND EMAILS.