



COUNTY OF HUMBOLDT

Legislation Text

File #: 21-1120, Version: 1

To: Board of Supervisors

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

Summarily Approve Nuisance Abatement Assessment on Property Located at 6147 Walnut Drive, Eureka

RECOMMENDATION(S):

That the Board of Supervisors:

1. Summarily approve the proposed Nuisance Abatement Assessment on the property located at 6147 Walnut Drive, Eureka, CA (APN 303-063-029), which is in violation of various Humboldt County Codes in the amount of \$84,054.83 in accordance with Title III, Division 5, Chapter 2, section 351-21 Summary Approval of Proposed Assessments.

SOURCE OF FUNDING:

General Fund

DISCUSSION:

The Board is being asked to summarily approve the proposed Nuisance Abatement Assessment against a property owned by Nathan Megazzi-Verco and Donald Garcia located at 6147 Walnut Drive, Eureka (APN 303-063-029).

The recent case history began in Oct. of 2015 when the Code Enforcement Unit was contacted by the County of Humboldt Health and Human Services, Division of Environmental Health (DEH) alleging there were conditions on the subject property in violation of Humboldt County Code (HCC). The residentially zoned property is developed with a single-family residence and outbuildings.

An Inspection Warrant and Order of Abatement was served upon the property owners and occupants of the property on Jul. 20, 2016, to abate conditions existing on the property in violation of Humboldt County Code. The conditions included junk vehicles, maintaining a junkyard, and improper disposal of solid waste. The cost of the abatement totaled \$23,480.75, which was recorded as a Notice of Lien against the Property on Dec. 22, 2016.

In May 2017 renewed complaints were received stating the property was out of compliance again and there were more junk vehicles, garbage, solid waste, and an RV being used as a residence on the property. A warrant inspection on Sept. 28, 2017, revealed violations of HCC including:

- Section 354-1 Junk Vehicles

- Section 521-4 Improper storage and removal of solid waste

- Section 314-81.1 Use of a recreational vehicle as a residence

- Section 371-2 Maintaining a junkyard

- Section 331-28 Construction of building/structure in violation of building, plumbing and/or electrical codes

- Uniform Housing Code 1001 and Health and Safety Code 17920.3 - Substandard housing

The property owners were served a Notice to Abate Nuisance (NTA) on Oct. 20, 2017, for the public nuisances observed, see Attachment A.

The property owners requested an appeal hearing for the NTA and on Dec. 11, 2017, the matter was heard via video conference by Hearing Officer Jacquelyn Larson with the Institute for Administrative Justice University of the Pacific McGeorge School of Law. Subsequently, the Hearing Officer issued a Finding of Nuisance and Order of Abatement, see Attachment B. The Finding and Order found all conditions listed on the NTA constituted a public nuisance and specified a timeline for abatement.

From Feb. 2018 to Mar. 2021 attempts to communicate with the property owners to monitor compliance produced inconsistent results. Although there were numerous letters and phone calls to the property owners and personal visits to the property, the occupants of the property and the whereabouts of the property owners were constantly changing, as were contact phone numbers. During this time the Code Enforcement Unit continued to receive complaints on a regular basis. When the property owners could be reached there would be compliance inspections to check progress with the abatement. These inspections revealed some progress, however, it seemed that any forward progress was usually followed by a subsequent relapse.

Evaluating the progress toward removing the solid waste and junk vehicles in the front yard could be done from the public road. But without consent to enter the property, the interior of the residence and the backyard areas were inaccessible for inspection. New complaints were received regarding the condition of the inside of the residence. The complaints stated there was no water or electricity to the property, yet there were occupants living in the residence. Repeated attempts to contact the occupants were unsuccessful. It was beginning to be apparent that the County would need to step in to abate the public nuisances on the property a second time.

Ultimately, an Inspection Warrant was obtained to gain entry to the residence and property on Jul. 21, 2020, see Attachment C for photos. Based on the observations from the inspection a

Notice and Order of Substandard Housing and Order to Vacate was served on the property, Attachment D. This Notice gave the property owners 60 days to correct the conditions named in the Order of Substandard Housing and Order to Vacate. Based on advice from County Counsel another NTA was served on this property in Mar. 2021 due to the length of time that had lapsed since the Hearing Officer's Finding and Order in Jan. 2018. These Notices set the stage for the county to be in a position to perform a county abatement and address the violations on the inside and outside of the residence.

On Jan. 27, 2021, a Professional Service Agreement was entered into with Hudspeth and Associates, Inc. to perform the public nuisance abatement work for the county, see Attachment E. On Mar. 30, 2021, a project specific Task Order was executed with Hudspeth and Associates, Inc. to complete the abatement on the subject property, see Attachment F. An Inspection Warrant and Order of Abatement was authorized on Apr. 1, 2021, Attachment G.

The abatement of the property began on Apr. 5, 2021, and concluded on April 14, 2021. The solid waste and junk vehicles were removed from the property and residence was boarded-up to secure the structure. While the conditions inside the residence were substandard and no one was allowed to live there, the structure was not unsafe, meaning it would be possible to repair and remodel the residence to livable condition. Therefore, the demolition of the residence was not warranted. Approximately 40 (forty) cubic yards of solid waste and debris were removed from the property. See Attachment H for pre-abatement photos taken on Apr. 5, 2021, and post-abatement photos taken on Apr. 14, 2021.

Pursuant to HCC section 351-16 a Notice of Nuisance Abatement Assessment was served for \$84,054.83 which included the \$79,599.72 in costs paid to Hudspeth and Associates, Inc. to perform the abatement, see invoice in Attachment I, plus \$4,455.11 for administrative costs incurred on this enforcement action; see Attachment J for the Notice and a summary of the administrative costs. The property owners did not submit a request for a Cost Recovery Hearing.

HCC section 351-21 states "if an objection to the proposed assessment is not filed by any Owner, Beneficial Owner, Occupier or any other person in charge or control of the affected property within ten (10) calendar days after service of the Notice of Nuisance Abatement Assessment, the Humboldt County Board of Supervisors shall summarily approve the proposed assessment without holding a Cost Recovery Hearing."

The property owners were given ample opportunity to address the public nuisances on the property and avoid a County performed abatement. The amount of the proposed Nuisance Abatement Assessment, \$84,054.83, equals the actual costs of abatement and staff time. Administrative civil penalties are not being sought in this case. The approval of the proposed Nuisance Abatement Assessment will repay the County for the actual costs of abating the public nuisances and correcting the code violations on this property. At this point, there is not a rationale for a reduction or elimination of the proposed Nuisance Abatement Assessment because it is based on expenses already paid.

Based upon these factors, it is recommended that the Board of Supervisors confirm the proposed

Nuisance Abatement Assessment.

Upon summary approval of the Nuisance Abatement Assessment, the property owners will be served a Notice of Nuisance Abatement Assessment Lien. This notice will inform the property owners of the assessment and provide the property owners forty-five (45) calendar days to pay the assessment before the recording of the Notice of Nuisance Abatement Assessment Lien.

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.*

This property has an existing lien in the amount of \$23,480.75 from the 2016 County Abatement and this amount has been on the tax roll, and unpaid, for three full years. Pursuant to HCC 351-23(h) “...the affected Property may be sold by the Humboldt County Treasurer-Tax Collector after three (3) years for unpaid delinquent Nuisance Abatement Assessments.” It is anticipated the Treasurer-Tax Collector will be putting this property up for auction in early 2022 and it is important that the Nuisance Abatement Assessment for the 2021 County Abatement be recorded as a lien prior to that event so the County is in a position to recover the associated costs when the property transfers ownership.

FINANCIAL IMPACT:

The cost of preparing the case and serving the notices has been included as administrative costs in accordance with established policies and code sections. Administrative staff costs associated with this assessment total \$4,455.11 and have been budgeted in the salaries and expenses of budget unit 1100-269 (Code Enforcement). The cost of the abatement totals \$79,599.72 and was paid out of monies set aside for county abatements in the General Fund and transferred to budget unit 1100-269. The total Nuisance Abatement Assessment is proposed in the amount of \$84,054.83.

STRATEGIC FRAMEWORK:

This action supports your Board’s Strategic Framework by enforcing laws and regulations to protect residents

OTHER AGENCY INVOLVEMENT:

Department of Health and Human Services Environmental Health, Building Division, and the Sheriff’s Department.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Board could choose not to approve the Nuisance Abatement Assessment. However, this is not recommended because staff recommendations align with Title III, Division 5 of Humboldt County Code. By choosing this option there will be no reimbursement from the property owner for the public funds spent to clean up and abate the public nuisance

ATTACHMENTS:

Attachment A - Notice to Abate Nuisance

Attachment B - Finding of Nuisance and Order of Abatement

Attachment C - Inspections Photos 7/21/2020

Attachment D - Notice and Order of Substandard Housing and Order to Vacate

Attachment E - Professional Services Agreement with Hudspeth

Attachment F - Task Order with Hudspeth

Attachment G - Inspection Warrant and Order to Abate

Attachment H - Pre-Abatement 4/5/2021 & Post Abatement 4/14/2021 Photos

Attachment I - Hudspeth Invoice

Attachment J -Notice of Nuisance Abatement Assessment

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: N/A

File No.: N/A