



COUNTY OF HUMBOLDT

Legislation Text

File #: 22-1030, Version: 1

To: Board of Supervisors

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

Summarily Approve Nuisance Abatement Assessment on Two Properties Located at 743 Montana Road, McKinleyville and 2773 Spears Road, Eureka

RECOMMENDATION(S):

That the Board of Supervisors:

1. Summarily approve the proposed Nuisance Abatement Assessment for case CE21-1042 on the property located at 743 Montana Road, McKinleyville, CA (APN 508-211-045) in the amount of \$29,831.55 in accordance with Title III, Division 5, Chapter 2, section 351-21 Summary Approval of Proposed Assessments; and
2. Summarily approve the proposed Nuisance Abatement Assessment for case CE21-0925 on the property located at 2773 Spears Road, Eureka, CA (APN 403-011-024) in the amount of \$15,749.76 in accordance with Title III, Division 5, Chapter 2, section 351-21 Summary Approval of Proposed Assessments.

SOURCE OF FUNDING:

General Fund, Code Enforcement (1100-269) Nuisance Abatement (631130)

DISCUSSION:

Staff is recommending that the Board summarily approve two proposed Nuisance Abatement Assessments.

743 Montana Road, McKinleyville

The first assessment is for a property owned by John R. Davis & Betty L. Davis (both deceased) located at 743 Montana Road, McKinleyville (APN 508-211-045).

The recent case history began in May of 2021 when the Code Enforcement Unit received a complaint alleging there were conditions on the subject property in violation of Humboldt County Code (HCC). The complaint alleged that there was garbage and debris all around the property, vehicles that were broken down, that there was no electricity to the property and that the occupants had to run a generator all day to provide any electricity to the property. The

residentially zoned property is developed with a manufactured home and outbuildings.

The owners of this property are deceased, however, the occupants consented to an inspection which was conducted on June 8, 2021. The following Humboldt County Code violations were observed:

1. improper storage and removal of solid waste and
2. substandard housing conditions.

A Notice and Order of Substandard Housing (hereinafter referred to as “Notice and Order”) was served July 27, 2021, see Attachment A. The Notice and Order stated that the conditions were determined to be caused by the Occupants and the work to correct the conditions needed to be commenced by Oct. 11, 2021. No appeal of the Notice and Order was requested.

Code Enforcement continued to receive complaints about the property and attempts to contact the occupants were unsuccessful. On Oct. 14, 2021, a Building Inspector responded to the property and observed, from the outside of the structure, that no work appeared to have been started to correct the conditions in the Notice and Order and there appeared to be more junk vehicles and debris around the property.

Because the property owners were deceased and unable to give consent and the occupants were not responding to the attempts to contact them, Code Enforcement obtained and served an Inspection Warrant on Jan. 6, 2022, see Attachment B. The inspection revealed that the conditions within the residence had become dangerous and the Building Division determined the structure was uninhabitable and needed to be vacated (see photos in Attachment C). A Notice of Substandard Housing and Order to Vacate (Order to Vacate) was posted on Jan. 18, 2022 (see Attachment D).

On Feb. 3, 2022, Code Enforcement served a Notice to Abate Nuisance (NTA) for HCC 521-4 - improper storage and removal of solid waste, and HCC 354-1 - junk and/or inoperable vehicles for the conditions constituting a nuisance, see Attachment E. There was no appeal hearing request received and there was no notable progress to correct the public nuisances. The complainants continued to call and email stating that additional garbage was being dumped on the property and the rat infestation due to the solid waste accumulation had worsened.

Due to the deteriorating conditions on the property and the property owners being deceased, it was determined that a county abatement of the public nuisances would need to occur for the conditions to be abated.

The county entered into a professional services agreement and project-specific task order with Mercer-Fraser Company to perform the public nuisance abatement work for the county (Attachment F). An inspection warrant and order of abatement was authorized on March 17, 2022 (Attachment G).

The abatement of the property began on March 21, 2022 and concluded on March 30, 2022. At the conclusion of the abatement the solid waste and junk vehicles had been removed from the property, pest mitigation had been conducted and a fence was erected along the front of the property to deter further garbage dumping on the property. Pre- and post-abatement photos of the property are in Attachment H.

Pursuant to HCC section 351-16 a Notice of Nuisance Abatement Assessment was served for \$29,831.55 which included the \$24,171.00 in costs paid to Mercer-Fraser Company to perform the abatement (the invoice is included in Attachment I, plus \$5,660.55 for administrative costs incurred on this enforcement action; Attachment J includes the notice and a summary of the administrative costs). No request for a cost recovery hearing was received.

2773 Spears Road, Eureka

The second assessment is for a property owned by Donna Keith & Donald Snyder (both deceased) located at 2773 Spears Road, Eureka (APN 403-011-024).

The recent case history began in February, 2021 when the Code Enforcement Unit received a referral from Humboldt County Sheriff's Office regarding people living in a shed without utilities, on a fire-damaged property that had a heavy accumulation of solid waste and junk cars. The residentially zoned property had been developed with two manufactured homes and a shed but the fire had destroyed the two manufactured homes and severely damaged a fifth wheel travel trailer. Furthermore, several complainants stated the driveway was very steep and deteriorating which caused erosion debris to accumulate at the neighborhood mailboxes. They also complained about the generator noise.

The occupants were contacted and they confirmed they were without power and living in the shed. They were using a generator for power. A consent inspection was planned for Feb. 8, 2021. The inspection confirmed the following violations were occurring on the property:

1. improper storage and removal of solid waste
2. junk and/or inoperable vehicles
3. construction of building/structure in violation of building, plumbing or electrical codes
4. development in the coastal zone without permits
5. abandoned onsite wastewater treatment system
6. declaration of public nuisance.

Attachment K contains the photographs that were taken during the property inspection. A Notice to Abate Nuisance (NTA) was prepared and served on March 8, 2021, along with the Department of Health and Human Services Division of Environmental Health's (DEH) Notice of Violation (Attachment L). There was no appeal hearing request received and as of an April 8, 2021 inspection, there was no notable progress to correct the public nuisances.

The complainants continued to call and email regarding the condition of the driveway to the property, the occupants living in the shed and the generator noise.

Due to the deteriorating conditions on the property and the property owners being deceased, staff determined that a county abatement of the public nuisances would need to occur for the conditions to be abated. After notifying the occupants of the intention to perform a county abatement, the occupants stated that the probate process had been initiated and they had a “buyer” for the property who would correct the violations. Code Enforcement confirmed the identity of the buyer and allowed time for the buyer to improve the condition of the property. Approximately 2 weeks later further investigation revealed that probate had not been initiated and an inspection of the property revealed the conditions had not significantly improved.

Code Enforcement made numerous attempts to get the occupants to improve conditions on the property. Probate had not been initiated and complaints continued to be received on a weekly, and sometimes daily, basis. Once again, the occupants were notified of the intention to perform a county abatement.

The county entered into a professional services agreement and project-specific task order with Johns’ Group LLC to perform the public nuisance abatement work for the county (Attachment M). An Inspection Warrant and Order of Abatement was authorized on Feb. 22, 2022 (Attachment N).

The abatement of the property was completed in 1 day, on March 11, 2022. At the conclusion of the abatement the solid waste, hazardous materials and demolition debris had been removed from the property. All but one junk vehicle was removed with the final vehicle tagged for abatement. The shed was boarded up to prevent entry. Post-abatement photos of the property are in Attachment O.

Pursuant to HCC section 351-16 a Notice of Nuisance Abatement Assessment was served for \$15,749.76 which included the \$6,605.50 in costs paid to Johns’ Group, LLC to perform the abatement (the invoice is included in Attachment P, plus \$9,144.26 for administrative costs incurred on this enforcement action; see Attachment Q for the notice and a summary of the administrative costs). No request for a cost recovery hearing was received.

Summary

In both cases the fact that the property owners were deceased created a situation where there was no responsible party to perform the abatement. And in both cases the condition of the property continued to deteriorate and generate community complaints. The amount of the proposed nuisance abatement assessments equals the actual costs of abatement and staff time. Administrative civil penalties are not being sought in either of these cases. The approval of the proposed nuisance abatement assessments will repay the county for the actual costs of abating the public nuisances and correcting the code violations on these properties. At this point, there is not a rationale for a reduction or elimination of the proposed nuisance abatement assessments because they are based on expenses already paid.

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.”

Based upon these factors, staff recommends that the Board of Supervisors confirm the proposed nuisance abatement assessments.

Upon summary approval of the nuisance abatement assessment, a Notice of Nuisance Abatement Assessment Lien will be served on the property. This notice will 45 calendar days for the assessment to be paid 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.*

FINANCIAL IMPACT:

Total expenses of both abatements is \$42,581.31, of which \$30,315.26 was for professional services and \$12,266.05 was related to administrative costs. The cost of preparing the cases 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 have been included in the Fiscal Year 2022-23 budgeted for Code Enforcement (budget unit 1100-269). The cost of the abatement was paid out of monies set aside for county abatements in the General Fund and transferred to budget unit 1100-269. With staff recommendation, there is minimal impact to the General Fund with this Board item.

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 for the public funds spent to clean up and abate the public nuisance

ATTACHMENTS:

Attachment A - Montana Notice and Order of Substandard Housing 2021.07.27
Attachment B - Montana Inspection Warrant 2022.01.06
Attachment C - Montana Inspections Photos 2022.01.06
Attachment D - Montana Notice and Order of Substandard Housing & Order to Vacate 2022.01.18
Attachment E - Montana Notice to Abate Nuisance
Attachment F - Montana PSA & Task Order with Mercer-Fraser Company
Attachment G - Montana Inspection Warrant and Order of Abatement 2022.03.17
Attachment H - Montana Pre & Post Abatement Photos
Attachment I - Montana Mercer-Fraser Company Invoice
Attachment J - Montana Notice of Nuisance Abatement Assessment
Attachment K - Spears Inspection Photos 2021.02.28
Attachment L - Spears NTA & DEH NOV
Attachment M - Spears PSA & Task Order
Attachment N - Spears Inspection Warrant and Order of Abatement 2022.02.22
Attachment O - Spears Post Abatement Photos
Attachment P - Spears Johns' Group LLC Invoice
Attachment Q - Spears Notice of Nuisance Abatement Assessment

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A
Meeting of: N/A
File No.: N/A