



COUNTY OF HUMBOLDT

Legislation Text

File #: 24-926, **Version:** 1

To: Board of Supervisors

From: Planning and Building Department

Agenda Section: Time Certain Matter

Vote Requirement: Majority

SUBJECT:

1:00 PM Cost Recovery Hearing for Abatement Costs on Property Located at 1989 Peninsula Dr, Arcata, CA 95521 (APN 506-102-001-000)

RECOMMENDATION(S):

That the Board of Supervisors:

1. Open the public hearing and receive the staff report, testimony by appellant, and testimony from the public; and
2. Close the public hearing; and
3. Confirm the proposed Nuisance Abatement Assessment on the property located at 1989 Peninsula Dr, Arcata, CA 95521 (APN 506-102-001-000) in the amount of \$21,691.41 in accordance with Section 351-20 Cost Recovery Hearing of Title III, Division 5, Chapter 2 of the Humboldt County Code; and
4. Adopt the Resolution to confirm the proposed Nuisance Abatement Assessment against Jon and Violet Japport pursuant to Humboldt County Code sections 351-1 et seq

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 matter regards a Code Enforcement Cost Recovery Hearing for 1989 Peninsula Dr, Arcata, CA 95521 (APN 506-102-001-000) (Hereinafter "Subject Property"). Code Enforcement spent \$21,691.41 to clean up the subject property. The property owner is requesting that the Board of Supervisors waive repayment of this cost.

The Board needs to make two decisions. First, the Planning and Building Department is requesting the Board confirm the Nuisance Abatement Assessment amount. Second, the Board must decide whether the property owner should be responsible for this cost.

Jon and Violet Japport are the owners of the subject property. Mr. Japport is appealing the Nuisance Abatement Assessment, served

on May 1, 2024, on the basis that he was expecting COVID money to resolve the violations. Mr. Japport states that he received \$30,000 the day after the abatement was complete. The Planning and Building Department recommends that the appeal be denied because the property owner did not resolve the violation, thereby forcing the county to complete the abatement. Jon and Violet Japport have not contested the cost of the abatement.

In the past 9 years, Code Enforcement opened two separate cases on this property. In 2015, Code Enforcement opened its first case. The violations observed at that time included maintaining a junkyard and having a secondary dwelling unit without permits. Since 2015, records indicate that people have been living on the property without permission. In 2021 a drive-by inspection was done, and solid waste and numerous junk vehicles were observed.

In November 2022, Code Enforcement opened a second case after the Sheriff's Department responded to an explosion and fire on the property. The explosion caused significant structural damage to the residence located on the Subject Property. For example, the explosion caused the ceiling/roof to become detached from the walls and the residence became uninhabitable. The Building Inspector documented the substandard living conditions and posted the residence Unsafe to Occupy. He then issued a Notice and Order of Substandard Housing and Order to Vacate. After 14 months, without progress from the property owner, the building official referred the substandard housing case to Code Enforcement for further enforcement. On Aug. 15, 2022, Code Enforcement served a Notice to Abate Nuisance and a Notice of Violation on the property owners. On Aug. 19, 2022, the property owner requested a compliance agreement. On Oct. 13, 2022, Code Enforcement sent the agreement to Mr. Japport. On March 9, 2023, Code Enforcement received the fully executed compliance agreement back from Mr. Japport. As of Oct. 26, 2023, Jon and Violet Japport had not complied with the agreement and were in breach of said agreement.

From 2015 to 2022 the property conditions continued to worsen. By August of 2022, solid waste covered the site, creating harborage for rodents and a vector issue. Further, there was a mattress on the roof of the burned structure, numerous junk vehicles, numerous combustible materials (including gas cans), and tires on site. In addition, the subject property contained several unpermitted structures (erected without permits in the Coastal Zone), and a partially burned, unpermitted structure. The combination of these violations posed an immanent Health and Safety threat to the other residents in Manila. Late in 2023, the department determined that a county-led abatement would be necessary to protect the community of Manila. In January 2024, the department observed, through a drive-by inspection, that the burned structure had been torn down without either a coastal development permit or a demolition permit. Over a period of 8 years the property owner had ample time to resolve the violations, but that was not accomplished.

In performing the abatement, the abatement contractor required the use of a skid steer, a mini excavator, one dump truck, one dump trailer, and five workers to remove over 19 tons of solid waste and debris from the property. Prevailing wage determinations were used, set by the Department of Industrial Standards. Heavy equipment was used and subsequently charged to the abatement. The fee schedule for the equipment followed the CalTrans Equipment Rental Rates. It should be noted that the junk vehicles were removed by the property owner prior to the contractor's abatement.

Humboldt County Code (HCC) section 351-20(a) states in part that "the Humboldt Board of Supervisors shall hear testimony and consider evidence concerning the validity of the proposed assessment and any other matters deemed pertinent."

Attachment F shows the before and after pictures of the site. The "before" pictures show the site covered in junk in addition to the substandard housing and junk vehicles. The property owner removed the junk vehicles, and the structure was toppled but the materials remained on site. The site needed to be cleaned up and the property owner was unwilling or unable to complete the cleanup.

In his appeal, Mr. Japport claims that he continually advised staff that he would clean up the property once he received "COVID money." This claim was repeated for over a year without any action from the property owner. The department provided the opportunity for Mr. Japport to resolve the violations by offering a 1-year compliance agreement. This action would give him a year to resolve the violations. Mr. Japport took 5 months to return the signed agreement during which time no action was taken. During the remaining 7 months of the agreement, no work was completed to resolve the violations. The lack of action on the part of a property owner created the need for the abatement. When there is no discernable action, the county needs to move to resolve the violations for the safety of the community. The cost of that effort then becomes the responsibility of the property owner.

Pursuant to HCC section 351-16 a Notice of Nuisance Abatement Assessment was served for \$21,691.41. The assessment included

\$17,740.91 in costs paid to KH McKenny Inc. to perform the abatement, see Notice of Nuisance Abatement Assessment Exhibit G, plus \$3,950.50 for administrative costs incurred on this enforcement action. For the KH McKenny Invoice with backup. See Exhibit H.

SOURCE OF FUNDING:

General Fund, Code Enforcement (1100269) Nuisance Abatement (631130).

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 Nuisance Abatement Assessment total \$ 3,950.50 and have been budgeted in the salaries and expenses of budget unit 1100-269 (Code Enforcement). The cost of the abatement totals \$21,691.41 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 \$21,691.41. In the event the property owners fail to pay the final assessment, the Nuisance Abatement Assessment will be recorded as a lien on the property pursuant to the timeline and procedures specified in the County Code and if necessary, the assessment will be returned to the Humboldt County upon the sale of the property.

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

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 the 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 1 - Jon Japport Draft Resolution
Exhibit A - Consent Letter
Exhibit B - Notice of Nuisance
Exhibit C - Notice and Order of Substandard Housing and Order to Vacate
Exhibit D - Notice to Abate Nuisance and Notice of Violation and Proposed Civil Penalty
Exhibit E - Compliance Agreement
Exhibit F - Before and After Photographs
Exhibit G - Notice of Nuisance Abatement Assessment
Exhibit H - KH McKenny Invoice and Backup
Exhibit I - Request for Cost Recovery Hearing

PREVIOUS ACTION/REFERRAL:

Meeting of: N/A

File No.: N/A