



COUNTY OF HUMBOLDT

Legislation Text

File #: 21-1590, Version: 1

To: Board of Supervisors

From: Planning and Building Department

Agenda Section: Time Certain Matter

SUBJECT:

1 p.m. - Cost Recovery Hearing on Property Located at 6608 Third St., Fields Landing (APN 306-016-002)

RECOMMENDATION(S):

That the Board of Supervisors:

1. Confirm the proposed Nuisance Abatement Assessment on the property located at 6608 Third St., Fields Landing (APN 306-016-002) in the amount of \$49,318.74 in accordance with Section 351-20 titled Cost Recovery Hearing of Title III, Division 5, Chapter 2 of the Humboldt County Code.
2. Adopt the Resolution to confirm the proposed Nuisance Abatement Assessment against Lucas Bode pursuant to Humboldt County Code sections 351-1 *et seq.*

SOURCE OF FUNDING:

Property Owner

DISCUSSION:

The Board of Supervisors is being asked to confirm the proposed Nuisance Abatement Assessment against Lucas Bode involving a real property located at 6608 Third St., Fields Landing (APN 306-016-002) in the amount of \$49,318.74. The property owner has appealed the Abatement Assessment. 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.”

Violations on the subject property date back to citizen complaints made in October 2020 regarding conditions upon the premises. The complaint alleged there were unpermitted alterations to the residence and that people were living in an unsafe building. There were additional complaints regarding the condition on the property including an accumulation of solid waste and junk vehicles. The Building Division made several attempts to contact the owner of the property, Lucas Bode, to conduct an inspection of the residence, however the property owner never responded. Based on an inspection conducted from the public street, it was determined that the state of disrepair of the structure

was sufficient to post a Notice and Order of Substandard Housing (Notice and Order) and an Unsafe to Enter or Occupy at the property on Dec. 22, 2020. See Attachment A.

The Notice and Order allows for a 30-day appeal period to which no appeal was submitted. On March 4, 2021, a Notice to Abate Nuisance (NTA) and Notice of Violation and Administrative Civil Penalty (NOV) were served on the property for the following violations of Humboldt County Code (HCC), Uniform Housing Code (UHC) and Health and Safety Code (H&S):

Code Section	Description	Daily Penalty
UHC 1001 and H&S 17920.3	Substandard Housing	\$300
UHC 1001.11 and H&S 17920.3	Unsanitary Conditions	\$250
HCC 331-28	Construction of Building/Structure in Violation of Building, Plumbing and/or Electrical Codes	\$250
HCC 312-3	Development in the Coastal Zone Without a Permit	\$250
HCC 521-4	Improper Storage and Removal of Solid Waste	\$250
HCC 354-1	Junk and/or Inoperable Vehicles	\$250
HCC 352-3(t)(3)	Failure to Comply with Chief Building Official's Order	
	Total Daily Penalty	\$1,550

The property owner was personally contacted by Code Enforcement and Building Division staff on March 8, 2021, and informed of his right to appeal the NTA and NOV. During the same conversation, a request for inspection of the property was made, and denied. No appeal request was received by the deadline of March 15, 2021. See Attachment B.

An inspection was arranged for March 26, 2021, with consent provided by an occupant of the property. During the inspection, the property was observed to contain a two-story structure that was, allegedly, inhabited even after the Unsafe to Enter and Occupy placards were posted. The structure was in a state of disrepair with deteriorated building materials, a jagged roofline, and what appeared to be a foundation composed of various types and sizes of materials. In addition to the general disrepair of the structure, there was solid waste stored outside which included plastic totes stuffed full of miscellaneous items, scrap metal, construction materials, car seats, car parts, car batteries, excavator track pads, vehicle tires, a child's playpen, and extension cords and water hoses strewn about on the ground. Heavy construction equipment (excavators) and junk/inoperable motorcycles and a junk/inoperable motorhome were also present on the property. It appeared that excavation work had occurred as there was a water filled trench next to the structure with a draw bridge over the trench. Photos were taken during the Inspection. See photos in Attachment C. The inspectors were not allowed inside the structure.

In the weeks following the inspection very little progress was made by the property owner to abate the

public nuisances on the property. Numerous telephone calls and emails from citizens making complaints about the condition of the property continued to come in. The conditions deteriorated further when the public nuisances were observed to spill over the property line and encroach onto the public street. See Attachment D.

A permit record search and an inspection conducted in late May 2021 confirmed that conditions on the property had not improved, nor were the required permits applied for by the property owner. Based on the worsening condition of the property and no evidence from the property owner that improvements to abate the unsafe structure were being made, it was determined that a County abatement of the nuisance would be necessary.

On June 2, 2021, an inspection warrant was served to allow representatives from multiple agencies to assess the extent of the violations on the property and to allow an abatement contractor to access the property in preparation of a County performed abatement. During the inspection, the Chief Building Official was finally able to inspect the interior of the residence and confirmed the structure was a nuisance and unsafe. The structure was boarded-up to secure it from entry. Interior photos are in Attachment E.

On June 29, 2021, a Task Order, which included an Abatement Budget Proposal, was executed with Wahlund Construction, Inc. to perform the public nuisance abatement work for the subject property. Wahlund Construction was one of the contractors previously approved through the competitive bid process to perform County abatement work and had entered into a Professional Services Agreement with the County on January 27, 2021. See Attachment F.

An Inspection Warrant and Order of Abatement was issued by Humboldt County Superior Court. See Attachment G. The abatement of the property began on July 7, 2021 and concluded on July 27, 2021. The property owner was not present due to being incarcerated in the Humboldt County Correctional Facility. The solid waste was removed from the property and the demolition of the unsafe structure was completed and debris from the demolition was removed from the property. The grade was returned to its natural contours, the sewer line was capped, and erosion control measures were installed. Approximately 91 (ninety-one) tons of solid waste and demolition debris were removed from the property. See Attachment H for post abatement photos taken on July 26, 2021.

Pursuant to HCC section 351-16 a Notice of Nuisance Abatement Assessment was served for \$49,318.74 which included the \$44,639.43 in costs paid to Wahlund Construction, Inc. to perform the abatement, see invoice in Attachment I, plus \$4,679.31 for administrative costs incurred on this enforcement action; see Attachment J for the Notice and a summary of the administrative costs.

Mr. Bode objected to the proposed abatement assessment pursuant to HCC section 351-17(f) which sets the matter before your Board as a Cost Recovery Hearing. In his objection Mr. Bode writes, "According to the counties contractor Waland construction [sic] 'there look to be a half a million dollars worth of matial [sic] here.'" See Attachment K.

It is unclear what the property owner's statement intends to allege in the Cost Recovery Hearing

Request. If the statement is an objection to the amount of the Nuisance Abatement Assessment the County expenses are well documented.

The property owner was given ample opportunity to address the public nuisances on the property and to avoid a County performed abatement. The amount of the proposed Nuisance Abatement Assessment equals the \$44,639.43 in costs paid to Wahlund Construction, Inc. to perform the abatement, plus \$4,679.31 for administrative costs incurred by staff.

The NOV that was served on March 4, 2021, accrued administrative civil penalties for 90 days that total \$139,500. These administrative civil penalties are not being sought or included in this Nuisance Abatement Assessment. At this point, there is not a rational basis 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 your Board confirm the proposed Nuisance Abatement Assessment.

Upon the 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 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.*

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 \$4,679.31 and have been budgeted in the salaries and expenses of budget unit 1100-269 (Code Enforcement). The cost of the abatement totals \$44,639.43 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 \$49,318.74. 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. With staff recommendation, there is no 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:

None

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 - Inspection Photos 12/7/2020
Notice and Order of Substandard Housing
Unsafe to Enter or Occupy
- Attachment B - Notice to Abate Nuisance &
Notice of Violation and Administrative Civil Penalty
- Attachment C - Inspection Photos March 26, 2021
- Attachment D - May 15, 2021 Photo - Worsening Conditions
- Attachment E - Interior Photos June 2, 2021
- Attachment F - Task Order Wahlund & Professional Services Agreement Wahlund
- Attachment G - Inspection Warrant and Order of Abatement
- Attachment H - Post Abatement Photos July 26, 2021
- Attachment I - Wahlund Invoice
- Attachment J - Notice of Nuisance Abatement Assessment & Administrative Costs
- Attachment K - Request for Cost Recovery Hearing
- Attachment L - Resolution to Confirm NTA Assessment

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: N/A

File No.: N/A