



COUNTY OF HUMBOLDT

Legislation Details (With Text)

File #: 20-241 **Version:** 1 **Name:**
Type: Board Order **Status:** Passed
File created: 2/18/2020 **In control:** Planning and Building
On agenda: 3/17/2020 **Final action:** 3/17/2020
Title: Approve Administrative Civil Penalty Assessment on Various Properties

Sponsors:

Indexes:

Code sections:

Attachments: 1. Staff Report, 2. Attachment A - James & Lisa R Wheeler 211-375-012.pdf, 3. Attachment B - FYM Real Estate LLC 316-075-008.pdf, 4. Attachment C - W Creek LLC 316-075-009.pdf, 5. Attachment D - Michael Hinojosa 530-151-001.pdf

Date	Ver.	Action By	Action	Result
3/17/2020	1	Board of Supervisors	approved	Pass

To: Board of Supervisors

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

Approve Administrative Civil Penalty Assessment on Various Properties

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approve the proposed Administrative Civil Penalty Assessments on property owners who are in violation of various Humboldt County Codes including violation of Commercial Cannabis Land Use Ordinance (CCLUO) (formerly Commercial Medical Marijuana Ordinance) in the amount of \$900,000.00 plus administrative costs incurred in accordance with Title III, Division 5, Chapter 2, section 352-20 Summary Approval of Proposed Administrative Civil Penalty Assessments.

SOURCE OF FUNDING:

Property Owner

DISCUSSION:

The Board is being asked to approve the proposed Administrative Civil Penalty Assessments against five properties which have been unresponsive to notices from the county requiring abatement of nuisances and correction of code violations related to cannabis cultivation. Attachments A-D include record of key noticing documents for each violation, including the name of the property owner, the

name of the violator, the Assessor Parcel Number (APN), and notification documents.

Humboldt County Code Section 352-20 states “*If an objection to the proposed assessment is not filed by a Responsible Party within ten (10) calendar days after service of the Notice of Administrative Civil Penalty Assessment, the Humboldt County Board of Supervisors shall summarily approve the proposed assessment without holding an Administrative Civil Penalty Assessment Hearing.*”

These assessments are the result of active code enforcement on unpermitted cannabis operations as directed by your Board. Utilizing a combination of satellite imagery, on-site inspections, and in some cases collaboration with law enforcement, the Department issued Notices to Abate Nuisance and Notices of Violation and Proposed Administrative Civil Penalty (“Notice of Violation”) on each of the properties listed below for unpermitted cannabis operations, and in some cases unpermitted structures, and unpermitted grading.

James B & Lisa R Wheeler APN 211-375-012 **TOTAL: \$900,973.31**

- Grading without permits
- Construction of building/structure in violation of building, plumbing and/or electrical codes
- Violation of Commercial Medical Marijuana Ordinance

FYM Real Estate LLC APN 316-075-008 and 316-075-001 **TOTAL: \$901,697.66**

- Construction of building/structure in violation of building, plumbing and/or electrical codes
- Grading without permits
- Violation of Commercial Medical Marijuana Ordinance
- Junk vehicles
- Unapproved sewage disposal system
- Construction of building/structure in violation of building, plumbing and/or electrical codes
- Development within a Streamside Management Area
- Violation of Commercial Medical Marijuana Ordinance
- Grading without permits
- Use of mobile homes or trailers as place of habitation
- Improper storage & removal of solid waste

W Creek LLC APN 316-075-009 **TOTAL: \$900,894.49**

- Construction of building/structure in violation of building, plumbing and/or electrical codes
- Grading without permits
- Violation of Commercial Medical Marijuana Ordinance
- Junk vehicles
- Unapproved sewage disposal system
- Construction of building/structure in violation of building, plumbing and/or electrical codes
- Development within a Streamside Management Area
- Grading without permits
- Use of mobile homes or trailers as place of habitation

- Violation of Commercial Medical Marijuana Ordinance
- Improper storage & removal of solid waste

Michael Hinojosa APN 530-151-001

TOTAL: \$901,116.11

- Grading without permits
- Construction of building/structure in violation of building, plumbing and/or electrical codes
- Violation of Commercial Medical Marijuana Ordinance

Mr. Hinojosa was issued a Notice of Violation with a proposed daily administrative civil penalty of \$30,000 per day. The proposed administrative civil penalty accrued for 90 days, totaling \$2,700,000. The Department is requesting \$900,000 which is one-third of the total and is consistent with previous administrative civil penalty assessments.

Each entity has received proper notices in accordance with Title III, Division 5 which included notification by first class certified mail, posting to the property, and/or legal notices published in the local newspaper. The following notices were served upon the property owner(s) prior to the request of the issuance of the Administrative Civil Penalty Assessment.

1. First Contact Attempt - A Notice to Abate Nuisance in accordance with County Code section 351-7 and Notice of Violation and Proposed Administrative Civil Penalty County Code in accordance with section 352-7 were served upon the listed property owner(s) via first class certified mail and posting on the properties. None of the listed property owners have responded to the notification.
2. Second Contact Attempt - A Warning Letter was mailed via first class mail to the property owner. None of the property owner(s) listed responded to this notification
3. Final Contact Attempt - As a final attempt in the communication process to the property owner (s) the issuance of the Administrative Civil Penalty Assessment, County Code Section 352-15 was served via first class certified mail and posted to the properties. None of the listed property owners have responded to this notification.

Attempts to compel the property owners to respond to the notices, abate the nuisances and correct the code violations, and comply with Humboldt County Code section 314-55.4 and other applicable code sections have been unsuccessful. As a result, the proposed Administrative Civil Penalty Assessments are now before your Board to be approved. The next steps prescribed in Humboldt County Code section 352-21, *et seq.* include:

- a) Issuance of Notice of Administrative Civil Penalty Lien to each Responsible Party.
- b) Imposition of Administrative Civil Penalty Lien. The lien will be recorded 45 days after the service of the Notice of Administrative Civil Penalty Lien is served on the Responsible Party.

Once this is done, interest begins to accrue on the lien and the property may be foreclosed upon and sold subject to filing a complaint for foreclosure through the Humboldt County Superior Court.

FINANCIAL IMPACT:

The cost of preparing the case and serving the notices has been billed to the property owner in accordance with established policies and code sections. This is initially a General Fund cost. The General Fund will be reimbursed when the property owner pays the administrative cost, or after the property is held in lien and costs recovered through that process.

STRATEGIC FRAMEWORK:

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

OTHER AGENCY INVOLVEMENT:

The Sheriff's Department, California Department of Fish and Wildlife, Department of Health and Human Services Environmental Health, may also be involved when necessary.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could approve issuance of Administrative Civil Penalty Assessment for all, some or none of the properties listed.

ATTACHMENTS:

Attachment A: James B & Lisa R Wheeler, APN 211-375-012

Attachment B: FYM Real Estate LLC, APN 316-075-008

Attachment C: W Creek LLC, APN 316-075-009

Attachment D: Michael Hinojosa, APN 530-151-001

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: N/A

File No.: N/A