



COUNTY OF HUMBOLDT

Legislation Details (With Text)

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Title: Approve Administrative Civil Penalty Assessment on Various Properties

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Attachments: 1. Staff Report, 2. Attachment A.pdf, 3. Attachment B.pdf, 4. Attachment C.pdf, 5. Attachment D.pdf, 6. Attachment E .pdf, 7. Attachment F.pdf, 8. Attachment G.pdf, 9. Attachment H.pdf

| Date | Ver. | Action By | Action | Result |
|------------|------|----------------------|----------|--------|
| 11/17/2020 | 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 eight properties which have been unresponsive/non-compliant to notices from the county requiring abatement of nuisances and correction of code violations related to cannabis cultivation. Attachments A-H include record of key noticing documents for each violation, including the name of the property

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.

Rodolfo Machado #18CEU-419 APN 107-015-003 **TOTAL: \$900,627.19**

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

Rodolfo Machado #17CEU-244 APN 107-015-005 **TOTAL: \$901,229.64**

- Construction of building/structure in violation of building, plumbing and/or electrical codes
- Grading without permits
- Violation of Commercial Medical Marijuana Ordinance
- Unapproved sewage disposal system
- Use of a recreational vehicle or mobile home as a residence
- Improper storage & removal of solid waste

Rex Real Estate LLC Co #18CEU-634 APN 315-184-001 **TOTAL: \$901,729.38**

- Construction of building/structure in violation of building, plumbing and/or electrical codes
- Grading without permits
- Violation of Commercial Cannabis Land Use Ordinance
- Unapproved sewage disposal system
- Use of a recreational vehicle or mobile home as a residence

Green Sturgeon LLC #18CEU-75 APN 531-102-007 **TOTAL: \$900,703.62**

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

David R & Barbara Wilkes #18CEU-559 APN 220-052-006 **TOTAL: \$901,033.17**

- Construction of building/structure in violation of building, plumbing and/or electrical codes
- Grading without permits

- Violation of Commercial Cannabis Land Use Ordinance
- Unapproved sewage disposal system
- Use of a recreational vehicle or mobile home as a residence
- Improper storage & removal of solid waste
- Junk vehicles
- Development within a Streamside Management Area

CFV-KMV LLC #17CEU-116 APN 317-063-005 **TOTAL: \$900,777.79**

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

CFV-KMV, LLC was issued a Notice of Violation with a proposed daily administrative civil penalty of \$30,000 per day on July 30, 2019. 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.

Westgate Management LLC #17CEU-74 APN 314-193-010 **TOTAL: \$900,773.89**

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

Donka H Hristova #19CEU-62 APN 210-117-028 **TOTAL: \$900,655.21**

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

Ms. Hristova 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 first contact was 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 that were served upon the listed property owner(s) via first class certified mail and posting on the properties. Those who responded to the notification were offered compliance agreements. None of the listed property owners responded to or signed the compliance agreement and letters were sent withdrawing the compliance agreement offer. 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 in a timely manner.

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: Rodolfo Machado APN 107-015-003
Attachment B: Rodolfo Machado APN 107-015-005
Attachment C: Rex Real Estate LLC Co APN 315-184-001
Attachment D: Green Sturgeon LLC APN 531-102-007
Attachment E: David R & Barbara Wilkes APN 220-052-006
Attachment F: CFV-KMV LLC APN 317-063-005
Attachment G: Westgate Management LLC APN 314-193-010
Attachment H: Donka H Hristova APN 210-117-028

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: N/A

File No.: N/A