

Exhibit A

**DECISION AND FINAL ADMINISTRATIVE ORDER ON
ABATEMENT ORDER**

(Nevada County Land Use and Development Code (LUDC) Section L-II 5.23)

Date of Administrative Review Hearing: April 6, 2022

Hearing Officer: David J. Ruderman

Appellant(s): Laurel A. Wright

Appellant(s) Mailing Address: 13421 Mystic Mine Road, Nevada City, CA 95959

Case # CC19-0005 **APN #** 052-231-053

Citation Served: February 3, 2022 (mail & posting)

Parties Present:

- ✓ Nevada County Code Compliance: David Kopp, Code Enforcement Officer II
- ✓ Counsel for Nevada County Code Compliance: Douglas Johnson, Deputy County Counsel
- ✓ Appellant(s): Laurel Wright
- ☐ Counsel for Appellant(s): None

Exhibits Submitted on Behalf of Nevada County Code Compliance: Exhibit 1 consisting of Report of Inspection with photographs (Exhs. A–C), Notice of Administrative Hearing and Abatement Order (Exh. C).

Witnesses on Behalf of Nevada County Code Compliance: David Kopp, Code Compliance Officer II.

Exhibits Submitted on Behalf of Appellant(s): Exhibits A through D, consisting of before and after photos of property, receipts of cleanup costs, and medical records.

Witnesses on Behalf of Appellant(s): Laurel Wright.

FINDINGS: After conducting a fair and impartial review of all documents submitted and testimony of witnesses, as well as supplemental briefing provided by the parties, the undersigned Hearing Officer hereby makes the following findings concerning the violations for which appellant was cited and the administrative citations imposed:

1. **VIOLATION:** Nevada County LUDC Sec. L-II 5.20 Abatement and Removal of Inoperable Motor Vehicles.

Description: Inoperable vehicles.

Affirmed: Yes

Findings: County Code Compliance opened a case on the subject property in January 2019 stemming from complaints about the condition of the property and person(s) living in unpermitted temporary housing, though Code Compliance took no enforcement action until later

that year. Code Enforcement issued administrative citations and conducted multiple site inspections from the public right-of-way or driveway (in an attempt to contact the occupant to seek consent to inspect). During each of these inspections, Code Compliance identified an excessive accumulation of solid waste and what appeared to be numerous inoperable vehicles, in excess of two, that were visible from the public right-of-way.

In December 2019, Code Compliance Officer David Kopp spoke with the appellant and informed her of the steps she would need to take to avoid another citation for solid waste and inoperable vehicles. Namely, Mr. Kopp informed appellant she was to remove one of her three inoperable vehicles and remove a pile of debris from the driveway. It is unclear whether appellant complied with this request or whether Code Compliance simply did not follow-up. The COVID-19 pandemic occurred soon thereafter and it appears Code Compliance took no further action regarding this property in 2020. Appellant accordingly assumed her property was in compliance with County codes at that time.

In February 2021, Mr. Kopp received a communication from a local non-profit organization, FREED, who informed him that FREED was assisting appellant with the clean-up of her property. Mr. Kopp accordingly understood appellant should have more time to abate the solid waste and inoperable vehicles, though she had already had over a year, albeit during the pandemic. Appellant claims FREED made her property worse by removing items from her home and garage, depositing them in her yard, and then abandoning the project with her unable to dispose of or put her personal property back due to her health conditions. In July 2021, FREED informed Mr. Kopp that it had ceased working with the appellant. The County received information that indicated appellant had not cooperated with FREED's attempts to assist in the clean-up of the property. Mr. Kopp subsequently issued further citations to appellant in July and September 2021. Appellant claims not to have received these citations. She claims she understood her property complied with the County's codes because she had received no further follow-up from Code Enforcement since December 2019.

On February 2, 2022, Mr. Kopp inspected the subject property from the right-of-way and from appellant's driveway, which he accessed to seek appellant's consent to inspect the property. He identified debris and trash that was improperly stored throughout the property and at least three inoperable vehicles visible to the public. He served an Abatement Order by US Mail and posting on the property on February 3, 2022. Appellant did not claim she did not receive notice of the Abatement Order. The Abatement Order required appellant to correct the cited violations by March 17, 2022.

Mr. Kopp returned to the property on March 22, 2022 and again inspected the property from the right-of-way. The photographic evidence the County submitted from this inspection indicates an accumulation of solid waste that constitutes a public nuisance and threat to public health and safety, including improperly stored furniture, fixtures, discarded construction debris, solid waste covered by tarps, and miscellaneous household items. The evidence further indicates at least three inoperable vehicles on the property (Ford Expedition, Jeep, and Volkswagen Beetle), all of which are visible from the right-of-way. Code Compliance also introduced photographic evidence purporting to show two of the temporary garage structures were erected within the setback along the west side of the property.

Appellant has attempted to clean-up her property beginning in March 2022. She provided photographic evidence that indicates she obtained the assistance of acquaintances to clean up at least a portion of her property. She also provided receipts from U-Haul indicating she has rented a trailer and/or van on multiple occasions to clear some of her property. Her photographs taken April 4, 2022 (Appellant's Exh. B) show some clean up, but also show that other solid waste issues remain on the property and an attempt to cover improperly disposed of solid waste with tarps. Appellant has shown a good faith attempt to abate the nuisance conditions on her property, which have been limited by her medical condition, to which the County stipulated. However, while good faith efforts are necessary to abate a nuisance, they are not sufficient to avoid a violation if they do not remediate the nuisance and associated threat to health and safety.

Under Nevada County Land Use and Development Code (LUDC) Sec. L-II 5.20(F), "abandoned, wrecked, or dismantled or inoperative" vehicles may be declared a public nuisance and subject to abatement. However, a vehicle is exempt from LUDC Sec. L-II 5.20 if, among other reasons, it is: (1) "[c]ompletely enclosed within a structure in a lawful manner where it is not visible from the street or other public or private property"; or (2) "[l]ocated on a parcel in such a manner that no part of any vehicle ... is visible to public view up to ... [¶] 2 vehicles." (LUDC Sec. L-II 5.20(C)(1) & (4)(a).)

I find notice of the Abatement Order was proper, served by both US Mail and posting under LUDC Sec. L-II 5.23(D)(1)(b). I further find the conditions on the property constitute a public nuisance due to the presence of abandoned or inoperable vehicles, none of which are shielded from public view. While I understand appellant did not believe her property was out of compliance with County codes before she received the Abatement Order, regardless of whether she received the citations Code Compliance issued in July and September 2021, such failure to understand does not alleviate her responsibility to abate the nuisances once she received the Abatement Order. Finally, the property owner has continued to allow inoperable vehicles to exist in violation of the Nevada County Land Use and Development Code, despite her attempts to clean-up solid waste on her property. I therefore affirm the Abatement Order as to this violation. Appellant must remove and abate all conditions and specifically remove all inoperable automobiles and other inoperable vehicles determined to be a nuisance, or which are not otherwise properly stored under LUDC § L-II, 5.20(C).

Administrative Citation Imposed: None.

2. VIOLATION: Nevada County General Code, Sec. G-IV 8.2 Pre-Collection and Storage Practices.

Description: Solid waste.

Affirmed: Yes

Findings: For the reasons discussed above, I affirm the Abatement Order as to this violation. The accumulation of solid waste, furniture, appliances, fixtures, discarded construction debris, and miscellaneous household items, including those covered by tarps, on the property constitute a nuisance under Nevada County General Code Sec G-IV 8.2 as that ordinance read at the time

Code Compliance issued the Abatement Order and as it reads now. While I find that appellant made good faith efforts to remediate the solid waste accumulation at least partially on her property, I find such efforts have not fully remedied the issue. Of course, appellant's efforts were not in vain, as any abatement she is able to undertake will reduce the cost of abatement the County, and ultimately appellant, will need to incur. I therefore affirm the Abatement Order as to this violation. Appellant must remove and abate remove and abate all solid waste, vehicle parts, furniture, appliances, fixtures, discarded construction debris, piles of metal objects, and miscellaneous household items, including those covered by tarps.

Administrative Citation Imposed: None.

3. VIOLATION: Nevada County LUDC Sec. L-II 4.2.5 Building Setbacks.

Description: Structures within setback.

Affirmed: No

Findings: The Abatement Order did not identify the location of the temporary garage structures as a violation of the County's code. Instead, Mr. Kopp identified this purported violation at a subsequent site visit after he served the Abatement Order. Without deciding whether the temporary garages structures are improperly located within the setback, I cannot affirm this alleged violation because appellant did not receive any notice of this issue in the Abatement Order. I therefore dismiss this violation without prejudice.

Administrative Citation Imposed: None.

TOTAL ADMINISTRATIVE PENALTIES IMPOSED (all violations): \$0

You are hereby notified that you may seek judicial review of a Hearing Body's decision by filing a petition for review with the Superior Court, pursuant to Government Code section 53069.4, within 20 days after service of the notice of decision on Appellant.

The final amount of any fine imposed by the Hearing Officer shall be payable to the fiscal unit of the Department who issued the citation within thirty (30) days of the final order, and any deposit in excess of the fine shall be returned. In the event that the responsible party seeks judicial review of the final administrative order, payment of any fines, fees, costs, or charges shall be stayed pending the decision of the Superior Court.

Pursuant to Section 53069.4(b) of the Government Code, a responsible party may seek judicial review of the final administrative hearing order or decision by filing a timely appeal with the Superior Court within twenty (20) days after service of the final administrative order. The Superior Court shall hear the appeal de novo, except that the contents of the Sheriff's or Code Compliance Division's file shall be received in evidence. If the decision of the court is against the responsible party, and the administrative fine has not been deposited within thirty (30) days of the court's final order, the County may proceed to collect the penalty pursuant to the procedures set forth in L-II 5.23.J.

SO ORDERED:

DATED: April 18, 2022

A handwritten signature in dark ink, appearing to read "David Ruderman", is positioned above a horizontal line.

David Ruderman
Hearing Officer

CERTIFICATE OF MAILING

I am employed in the County of Nevada, State of California. I am over the age of 18 years and not a party to the Abatement Order; my business address is: Clerk of the Board of Supervisors, Eric Rood Administration Center, 950 Maidu Avenue, Nevada City, California 95959-8617.

I served the enclosed documents:

Decision and Final Administrative Order on Abatement Order

On the following persons via First Class US Mail on April 18, 2022:

Laurel Wright, 13421 Mystic Mine Road, Nevada City CA 95959

I placed such envelope, with postage thereon fully prepaid for first class mail, for collection and mailing at Nevada City, California, following ordinary business practices. I am readily familiar with the practice of Nevada County for processing of correspondence, said practice being that in the ordinary course of business, correspondence is deposited in the U.S. Postal Service the same day as it is placed for processing.

On the following persons via email on April 18, 2022:

David Ruderman, Esq., Colantuono, Highsmith & Whatley, PC, Hearing Officer
Nevada County Community Development Agency Director, Trisha Tillotson
Nevada County Code Compliance Program Manager Jeff Merriman
Nevada County Code Compliance Officer David Kopp
Nevada County Counsel Katharine Elliott
Nevada County Deputy County Counsel Doug Johnson
Nevada County Clerk of the Board Julie Patterson Hunter

I declare under penalty of perjury that the foregoing is true and correct.

4-18-22
Date



Barbara Price