

primary ingress and egress routes. (Nevada County Code, § G-IV 7.4.) The Code defines "hazardous vegetation" as "any vegetation that is combustible and endangers the public safety by creating a fire hazard..." (Nevada County Code, § G-IV 7.3, subd. (F).)

The Hearing Body heard from Mr. Merriman that Section G-IV 7.4, subsection B. of the Nevada County Code regarding Hazardous Vegetation requires every owner, occupant, and person in control of any parcel or any interest therein, located in the unincorporated territory of the County of Nevada to abate therefrom, and from all sidewalks and roadways on or immediately adjacent thereto (except for those roads accepted into the County maintained system), all combustible material and hazardous vegetation which constitutes a fire hazard and public nuisance which may endanger or damage neighboring property or forestland.

Due to numerous complaints from adjacent property owners, beginning in September 2016, County of Nevada Deputy Fire Marshal Matt Furtado observed from those adjacent properties a large stand of ponderosa pine trees that were dead and were well within 100 feet of the adjacent property-owners' dwellings. Mr. Furtado identified these dead trees as posing a significant risk for fire and life safety concerns due to the lean of many dead trees towards the adjacent property-owners' dwellings.

The Hearing Body heard testimony that Deputy Fire Marshal Matt Furtado, Code Compliance Program Manager Jeff Merriman, and other County officials attempted to work with the Property's owner to abate these conditions, but the owner did not voluntarily comply with the County's requests.

On November 8, 2018, Jeff Merriman, Program Manager at Nevada County Code Compliance, and Deputy Fire Marshal Matt Furtado posted a Hazardous Vegetation Abatement Notice on the subject property.

In its attempts to contact the Property Owner and gain compliance with the County Code, the Abatement Notice advised the Property Owner if abatement was not completed by December 6, 2018, then the County would pursue further enforcement of the matter, including nuisance abatement as described in Nevada County General Code Section G-IV 7.5. The Abatement Notice further advised that if the if the required abatement has not been performed, the Local Fire Official may require that the required fuel modifications be completed by the County, and the cost of enforcement including administrative costs, may be made a special assessment added to the County assessment roll and become a lien on the property, or be placed on the unsecured tax roll. Such assessment and lien are authorized under Nevada County Code sections G-IV 7.11 and 7.12.

Pursuant to Nevada County Code, section G-IV 7.11, the Abatement Notice gave the Property Owner the opportunity to request an appeal of the Order by November 19, 2018, but the County received no request to appeal the Notice to Abate.

Therefore, upon posting the Abatement Notice on November 8, 2018, Mr. Furtado referred the subject property to the Code Compliance Division for abatement.

Decision and Order

Nevada County Hazardous Vegetation Abatement Hearing Body

April 29, 2019

On November 30, 2018, Mr. Merriman received a telephone call from the property owner regarding the Abatement Notice she received. Mr. Merriman advised her of the County's voluntary and involuntary abatement process. The Property Owner stated she would like to proceed through the voluntary process, and authorized County officials to access the Property.

On November 30, 2018, from the parcels adjacent to the subject property, Mr. Merriman completed a job walk with three contractors to solicit proposals for the abatement work under a proposed voluntary abatement agreement with Ms. Newman. The contractors each provided the County with proposals for completing the work, and the County selected the lowest bidder to perform the abatement. On December 5, 2018, Mr. Merriman met with the Property Owner at her residence to sign a voluntary abatement form, and Mr. Merriman provided her with a copy of the agreement at that time.

On December 12, 2018, Mr. Merriman provided the Property Owner with a contract for the proposed work on the Property. On December 14, 2018, Mr. Merriman received a call from the Property Owner who stated she was revoking her voluntary abatement agreement because she disagreed with the scope of work and cost.

On December 26, 2018, Mr. Merriman posted an Abatement Advisement Letter on the subject property and also mailed a copy to the Property Owner. The Abatement Advisement Letter explained to the Property Owner that the County was accepting her revocation of voluntary abatement and would thereafter move forward with involuntary abatement of hazardous vegetation.

The County proceeded with abatement by requesting the County Counsel's Office to seek an inspection and abatement warrant from the Nevada County Superior Court.

On January 18, 2019, the Court approved the application for a warrant, which was executed beginning January 23, 2018. Execution of the warrant involved Mr. Merriman working with the County's contractor, Tree Pro Tree Services, Inc., to inspect and abate the nuisance. Tree Pro Tree Services, Inc., continued to work on the property during normal business hours from January 23 to January 31 to abate the nuisance conditions. On January 31, 2019, Tree Pro Tree Services, Inc. advised Mr. Merriman the nuisance had been abated on the subject property.

Prior to the execution of the Warrant, notice was given by posting a copy of the Warrant on the property twenty-four (24) hours prior to execution. Mr. Merriman supervised the execution of the Warrant, which was conducted for the purpose of inspecting the nuisance conditions upon the Property and abating those conditions therefrom. Mr. Merriman was present on the property during the execution of the warrant on January 23, 2019.

The Property Owner was served with a Notice of Proposed Assessment on April 12, 2019. The Notice complied with all requirements of Nevada County Code section G-IV 7.12, specifying:

April 29, 2019

1. The work done (supported by before and after pictures);
2. An itemized account of the costs and receipts of performing the work;
3. An address, legal description, or other description sufficient to identify the Parcel which was subject to abatement and/or lien;
4. The amount of the assessment proposed to be levied against the parcel(s), or the amount to be refunded, if any, due to excess proceeds over the expenses;
5. The time and place where Code Compliance will submit the account to the Hazardous Vegetation Abatement Hearing Body for confirmation. The time and place specified shall be no less than fifteen (15) days after service of the notice;
6. A statement that the Hazardous Vegetation Abatement Hearing Body will hear and consider objections and protests to the account and proposed assessment or refund.

The total amount of assessment proposed to be levied against the parcel is **\$43,035.87**. An itemized account of all costs and an invoice for the work performed is attached to this Order.

FINDINGS

WHEREAS, notice of this hearing has been given as required by law.

WHEREAS, the accountings on the cost of abating an unlawful hazardous vegetation nuisance condition on the Property and/or the administrative costs related thereto are both accurate and reasonable.

WHEREAS, the actual authorized costs incurred pertaining to enforcement and/or abatement of the hazardous vegetation nuisance condition on the Property, including associated administrative costs thereof, are as follows:

1. Abatement Costs: \$38,500
2. Code Compliance: \$1,092.12
3. County Fire Marshal: \$1,449.32
4. County Counsel: \$1,994.43
5. Total Costs: **\$43,035.87**

NOW, THEREFORE, having heard the report by the County of Nevada Code Compliance Department, and considering all relevant evidence pertaining to the costs incurred by the County, including, but not limited to, administrative costs, and any and all costs incurred to undertake abatement in compliance with the County's Hazardous Vegetation Ordinance, the Hazardous Vegetation Abatement Hearing Body hereby adopts the foregoing findings, orders the account and proposed assessment confirmed in whole, and recommends the Board of Supervisors, pursuant to Nevada County Code section G-IV 7.12 (C), place the proposed assessment set forth herein as a lien on the Property.

Decision and Order
Nevada County Hazardous Vegetation Abatement Hearing Body
April 29, 2019

SO ORDERED: Ayes: Stephen Monaghan, Don Wagner, Mike Rufenacht
Noes: None

Dated: 4-29-19



Stephen Monaghan
Hazardous Vegetation Abatement Hearing Board

ATTEST:

Julie Patterson-Hunter
Clerk of the Board

By: Barbara Pin / for
Julie Patterson-Hunter
Clerk of the Board

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:

Corrected Decision and Order of the Nevada county Hazardous Vegetation Abatement Hearing Body after Hearing on Cost Account and Proposed Assessment

On the following persons via First Class US Mail on May 7, 2019:

██████████ 13207 Fern Court, Grass Valley CA 95945

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 May 9, 2019:

Nevada County Code Compliance Program Manager Jeff Merriman
Nevada County Counsel Alison Barratt Green
Nevada County Counsel Attorney Scott McLeran
Nevada County Counsel Attorney Doug Johnson
Nevada County Clerk of the Board of Supervisors Julie Patterson Hunter
Hazardous Vegetation Abatement Hearing Officer Stephen Monaghan
Hazardous Vegetation Abatement Hearing Officer Don Wagner
Hazardous Vegetation Abatement Hearing Officer Mike Rufenacht

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

5-7-19
Date

Barbara Price
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