

ATTACHMENT 1
Original enforcement Order Modified to Remove Penalties

City of Santa Rosa
Administrative Hearings
100 Santa Rosa Avenue
Santa Rosa, CA 95404

File # CE18-0755

ADMINISTRATIVE ENFORCEMENT ORDER

Property Address: 1937 Terry Road, Santa Rosa, CA 95403

Responsible Party: Jeffrey London

APN: 148-100-025-000 Zoning District: RR-20

Administrative Hearing Officer's Decision:

A Noticed Hearing was held for this matter on January 13, 2021 commencing at approximately 1:00 p.m. The Hearing was held via Zoom coordinated/proctored by City of Santa Rosa staff member, Jenny Marquez. Once all participants had joined the Zoom Hearing, Ms. Marquez announced that due to the Order of the Health Officer of the County of Sonoma to shelter in place to minimize the spread of Covid-19, the Administrative Hearing was being held via the Zoom meeting format. The meeting was then turned over to the undersigned ("Hearing Officer"), who called the Hearing to order. Joining and participating in the Hearing with the Hearing Officer were the following persons: Cassidy Anderson, Code Enforcement Officer for the City of Santa Rosa ("Ms. Anderson"); Adam Abel, Esq. from the City of Santa Rosa, City Attorney's Office ("attorney Abel"); Jonathan London, who identified himself as the brother of Jeffrey London; and, Barry Barnett, who identified himself as an occupant of the property and a friend/care provider for Jeffrey London.

No appearance at the Hearing was made by Responsible Party, Jeffrey London, and no attorney for, or legally appointed personal representative of Jeffrey London appeared.

No request for a continuance of the Administrative Hearing was made by the City of Santa Rosa ("City"), nor by a legal representative of Jeffrey London. The Hearing Officer determined there was no just cause for continuing the Hearing.

The Hearing concerned allegations by City of multiple unabated violations of sections of the City Code at the above property, which will be specifically discussed below. Unless otherwise mentioned, all City Code Sections discussed will be styled "Section" followed by the specific number thereof.

Prior to the Hearing, the Hearing Officer was provided with Ms. Anderson's Administrative

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Hearing Staff Report and supporting attachments (“Report”), consisting of 240 pages, plus an index. Also prior to the Hearing, Ms. Anderson provided the Hearing Officer (via email on January 12, 2021) with 18 pages of additional photos of the subject property taken by Ms. Anderson on January 4, 2021, and 14 pages of additional photos of the property taken by Ms. Anderson on January 12, 2021. The Hearing Officer reviewed the Report in its entirety before the Hearing, and also reviewed carefully all additional photos of the property provided in the email of January 12, 2021. The Report and additional photos were received in evidence.

The Report includes proof that Responsible Party was served, by personal delivery (on December 16, 2020) and First Class and Certified Mail (on December 14, 2020), with copies of the Report, including the Administrative Notice and Order issued by Ms. Anderson on December 14, 2020, which included specific notice of the Administrative Hearing to be held via Zoom, on January 13, 2021, at 1:00 p.m.

After calling the Hearing to order the Hearing Officer administered oaths to Ms. Anderson, Jonathan London and Barry Barnett.

Ms. Anderson testified on behalf of City, and gave a detailed chronology of City’s issues with the property, including communications with Responsible Party, and other occupants of the property dating back to September, 2018. She authenticated the Report, and all photos therein contained, and those taken by her on January 4, and 12, 2021. She authenticated a one page “Permit to Perform Work” issued by City on 11/13/2018 to Responsible Party to perform “Electrical” work at the property, and testified that this Permit did not result in electrical work at the property (at least none that was later inspected or approved by City) and expired by its terms on November 13, 2019. The copy of the Permit was received in evidence. The Report includes multiple occasions where City issued violation notices, and “Notice and Order to Vacate” to Responsible Party and occupants of the property regarding several occupied RVs, with illegal wiring/outdoor extension cords. Many “Cease and Desist” orders were issued to Responsible Party and occupants pertaining to non-permitted auto repair work being performed on the property. Responsible Party and the occupants failed to comply with these orders.

Ms. Anderson’s testimony included her being told by telephone that Responsible Party had died on January 4, 2021. No Death Certificate was provided at the Hearing.

At the conclusion of Ms. Anderson’s testimony, the Hearing Officer considered whether Barry Bennett or Jonathan London could ask Ms. Anderson questions. A proper objection was made by attorney Abel that Barry Bennett and Jonathan London had no standing to represent Responsible Party and ask questions. The objection was sustained. The Hearing Officer, questioned both Jonathan London and Barry Bennett, as to whether either was a California attorney, or a duly appointed legal representative of Responsible Party. Learning that neither Barry Bennett nor Jonathan London was so licensed or appointed, the Hearing Officer asked Jonathan London if he had personal knowledge of the physical condition of the property, and his response was that he did not. Barry Bennett was asked if he had personal knowledge of a condition on the property

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contrary to those addressed by Ms. Anderson, and his reply was instead a statement that he and others would need more time to vacate the property.

The Hearing Officer adjourned the Hearing at 1:45 p.m.

After considering all oral and documentary evidence presented before and at the Hearing, the Hearing Officer makes the following findings:

A. City has complied with all notice requirements for the Hearing.

B. The Hearing Officer finds that Responsible Party is in violation of Sections of the City Code as follows:

Violation #1. Section 18-20.301.2: Failing to maintain the structures and exterior property in compliance with the City Code, and allowing occupancy by Responsible Party and others of the premises that are not in a sanitary and safe condition, and do not comply with the requirements of this chapter.

Violation #2. Sections 18-20.302.8, 20-42.070B.2, 20-42.070C.2.c, 20-42.070C.2.d, and 20-42.070C.2.f: the presence on the property of multiple inoperative or unlicensed motor vehicles parked, kept or stored on the premises, many in a state of major disassembly and disrepair or in the process of being stripped or dismantled; and painting of vehicles on the premises without an approved spray booth.

The evidence is indisputable that Responsible Party or an occupant of the property is conducting an illegal auto repair business, and auto painting business on the property.

Violation #3. Section 18-20.302.8: Parking, keeping and/or storage of multiple inoperative or unlicensed vehicles on the premises, and failure to remove such vehicles from the premises.

The Hearing Officer, after reviewing the entirety of the Report, additional photos, and hearing the testimony of Ms. Anderson, determines, that by a preponderance of the evidence, there are such vehicles stored on the premises *in addition to* those that are part of the illegal auto repair/painting business constituting Violation #2, above.

Violation #4. Section 20-30.060C Fences, Walls and Screening. Height Limits: Installation of oversized fence & vegetation in front yard setback higher than the allowable 36 inches above the ground.

By a preponderance of evidence, this violation existed along the front/street side of the property from before September, 2018, and still existed as January 4, 2021, as shown in photos taken by Ms. Anderson that date. Photos taken by Ms. Anderson on January 12, 2021 show the fencing taken down, with boards and a table, and other items blocking the sidewalk. The Hearing Officer finds that the person who dismantled the former fence that was in violation of this Section, performed this dismantling on January 12, 2021 as it is unlikely that this person would have left the fencing materials and his/her tools blocking the sidewalk beyond January 12, 2021.

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The photos taken by Ms. Anderson in January, 2021 do not depict oversized vegetation along the front of the property. The Hearing Officer finds that the violation of this Section by Responsible Party existed through January 11, 2021.

Violation #5. Section 18-16.105.1: Installation of metal carport structure in side yard setbacks without proper plans, approvals, permits and required inspections (Inspections per Section 18-16.109.1).

There is indisputable evidence that this violation has existed on the property for more than three years, and that Responsible Party has done nothing to abate this violation after multiple notices from City/Ms. Anderson.

Violation #6. Section 18-16.105.1: Addition of accessory roof structure at rear of dwelling without proper plans, approvals, permits and required inspections.

The evidence shows that this violation has existed on the property since prior to September, 2018, with no subsequent effort by Responsible Party to abate.

Violation #7. Section 20-16.030 Temporary housing: Un-permitted habitation of four (4) recreational vehicles throughout property in rear, front and side yards.

Though City made repeated efforts to have Responsible Party bring about an end to the illegal habitation of such vehicles on the property, such habitation continues, and no effort has been shown by Responsible Party to deal with this violation.

Violation #8. Section 18-20.605.4 Electrical Wiring: Flexible cords shall not be used for permanent wiring, or for running through doors, windows or cabinets, or concealed within walls, floors or ceilings.

Again, the evidence shows the continuous use of extension cords from the main dwelling on the property to energize the recreational vehicles and other structures on the property. Responsible Party was given multiple notices as to this violation over a three-year period, with no resulting effort to abate this violation.

Violation #9. Section 20-42.030.C.1.a Accessory Structures - Setbacks: An accessory structure on a parcel that is 50 feet or more in width shall not be placed closer than five feet to a property line, etc.

The evidence conclusively shows the presence of such a structure within five feet of the property line. Again, City gave multiple notices to Responsible Party of this violation, commencing in September, 2018. No effort was made by Responsible Party to abate this violation.

Violation #10. Section 18-20.605.1 Electrical Equipment Installation: All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

The evidence shows conduit electrical wiring improperly connected to the electric meter on the side of the residential structure, and strapped unsafely to the sides thereof, and running, above

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ground to a laundry room structure at the rear of the property. The violation has continued to exist after multiple notices of same were given to Responsible Party as detailed in the Report.

Violation #11. Section 18-32.89.108.4.1 Electrical Permits Required: A written construction permit shall be obtained from the enforcing agency prior to the erection, construction, reconstruction, installation, relocation, or alteration of any electrical system. An inspection is required for any such permitted work per Section 18-32.89.108.4.4.

The evidence shows the presence of non-permitted electrical conduit wiring throughout the property. Although the evidence shows that Responsible Party had obtained and paid for a "Permit to Perform Work" on November 13, 2018 for "Electrical", this Permit expired on November 13, 2019, without an inspection of completed work. The Permit itself is evidence of Responsible Party's knowledge of his obligations to comply with the City Code, and his corresponding intentional failure to comply.

Violation #12. Section 1-30.030(G)3(f) Nuisance Standards: The accumulation, disposal, keeping, scattering or dispersal of: used or damaged lumber; junk; trash; debris; salvage materials, abandoned, discarded or unused objects or equipment; mattresses or furniture; stoves; refrigerators; sinks; toilets; cabinets; or air conditioners, water heaters or other household fixtures; vehicles and vehicle parts; or equipment stored either (1) so as to be visible from a public street, alley, or from any adjoining property for at least 72 consecutive hours, or (2) so as otherwise to constitute a harborage for rodents or pests or a detriment to health, safety, and welfare of nearby properties, the neighborhood and/or the City.

There is overwhelming evidence of this violation in the Report, the recent photos and as related at the Hearing by Ms. Anderson. Sadly, the conditions have worsened over time, and it is evident that the hoard and dangerous conditions will further worsen if time elapses without abatement. There are numerous dangerous electrical hazards, and far too many flammable gasoline and propane tanks in vehicles and other containers throughout the property. The property constitutes a very dangerous condition to the occupants, guests, the surrounding neighborhood and the City.

C. Good cause exists for an Order requiring Responsible Party - or the court appointed personal representative of Responsible Party's estate - to abate the above violations, and remove all illegally placed vehicles, debris and structures mentioned above immediately.

Responsible Party, or his court appointed personal representative, if any **IS HEREBY ORDERED** to abate the twelve violations set forth above, including if necessary, the removal from the property of all vehicles, illegal electrical conduits and cords, structures and debris discussed above. Per Section 1-30.100(F), should Responsible Party, or his court appointed personal representative fail to commence abatement work within thirty days of the date this Order becomes final (which is the date this Order is mailed to Ms. Anderson), City is authorized to enter upon the property, and employ contractors who may enter upon the property and take whatever action is necessary to abate the existing violations. Responsible Party, and his court appointed personal representative, if any **IS FURTHER ORDERED TO CEASE AND**

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DESIST from any acts that would cause any of the existing violations described above to continue, or constitute new violations of the City Code. **IT IS FURTHER ORDERED** that Responsible Party, and the court appointed personal representative of Responsible Party, if any, shall not interfere with any abatement activities carried out by City or the contractors employed by City if such actions by City become necessary after this Order becomes final.

Further, any and all costs incurred by City in abating the twelve violations set forth above shall be an additional charge Responsible Party shall owe to City.

D. The Administrative Notice and Order dated December 14, 2020 is upheld with modification, discussed below.

E. The Hearing Officer assesses Penalties and Administrative Costs to Responsible Party as follows:

~~...1. As to Violation #4 only, the Hearing Officer assesses a Penalty of \$4,000.00. This amount is reached as a result of finding that the subject fence was dismantled as of January 12, 2021. The violation was to be corrected by January 3, 2021. The violation existed for eight days after January 3, 2021, therefore the assessed penalty is \$500.00 per day x 8 days for a total for this violation of \$4,000.00.~~

~~...2. As to Violations #1, #2 & #3, and Violations #5 through #12, the assessed Penalty is \$55,000.00. This amount is calculated by the 11 violations at \$500.00 per day x 10 days = \$55,000.00.~~

~~The Hearing Officer notes that the "PENALTY CALCULATION SHEET" set forth in the Report incorrectly had "12 days" of failure to correct the violations between January 3, and the Hearing Date of January 13, 2021.~~

~~The Total Penalty assessed to Responsible Party is \$59,000.00~~

The Hearing Officer finds that the failure to correct the twelve violations by the Responsible Party persisted for more than three years. Multiple notices of the violations were ignored, as were cease and desist orders. ~~While the Hearing Officer has discretion to assess penalties up to \$500.00 per day for each violation, the evidence shows a consistent lack of effort to correct the violations, a worsening of the conditions and willful misconduct. The maximum daily penalty is therefore assessed.~~

3. The Hearing Officer assesses Administrative Costs to Responsible Party as follows:

a. Attached hereto is a copy of the "ADMINISTRATIVE COSTS CALCULATION SHEET" received in evidence, which itemizes the Administrative Costs incurred by City prior to the Hearing. Those pre-hearing costs were \$4,672.00. Because of the appearance of Ms. Anderson at

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the Hearing (which included logging into the Zoom meeting proctor at 12:30 p.m., and participating in the Hearing until it was adjourned at 1:45 p.m.), the Administrative Costs are increased by \$ 226.25 (\$ 181.00/hr. x 1.25 hours). Total City Administrative Costs assessed to Responsible Party are \$ 4,898.25.

b. Per Section 1-30.030 of the City Code, the services of the Hearing Officer are an Administrative Cost. The Hearing Officer's time includes reading the Report, careful review of additional photos and another document received before the Hearing; legal research of City Codes and State law, preparing for the Hearing, logging into the Zoom meeting format and communicating with the meeting proctor, conducting the Hearing, reviewing all oral and documentary evidence received at the Hearing, preparing the Administrative Enforcement Order, and service of the Order by mail on Responsible Party and Ms. Anderson. The additional Administrative Costs assessed herein to Responsible Party for the services of the Hearing Officer on this case are \$ 2,604.69.

~~Total Penalty assessed to Responsible Party: \$ 59,000.00~~

Total Administrative Costs assessed to Responsible Party: \$ 7,502.94

F. The Hearing Office will serve copies of this Order on Responsible Party and Ms. Anderson by U.S. Mail. When the Order is so mailed on Ms. Cassidy, the Order shall be final.

G. This Order shall serve as notice to Responsible Party that if the above ~~Penalty and~~ Administrative Costs assessed are not received by City within thirty (30) days of the date of this Administrative Enforcement Order, the City may seek to enforce it through judicial review. ~~The penalty for late payment of the assessed penalty is 7% per annum, pro-rated daily from the payment due date.~~ The above ~~assessed Penalty and~~ assessed Administrative Costs may become the subject of a special assessment against the property if payment is not received within thirty (30) days of the date this Order becomes final. Should Responsible Party cause any delay in City's efforts to correct the above Violations (i.e.: prevent access to the property), and the above Violations continue, Responsible Party or his successor(s) in interest, if any may be subject to additional penalties authorized by law.

H. Per Santa Rosa City Code Section 1-30.120, a copy of which is set forth on pages 14 and 15 of the Report served on Responsible Party, any person contesting this Administrative Enforcement Order may seek review by filing an appeal with the Sonoma County Superior Court within twenty (20) days of this Order.

Dated: January 22, 2021

BY ORDER OF 
LEONARD C. CURRY
Administrative Hearing Officer

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City of Santa Rosa
Administrative Hearings
100 Santa Rosa Avenue
Santa Rosa, California 95404

File # CE18-0755

ADMINISTRATIVE COSTS CALCULATION SHEET
Appendix No. 7-E

- 1a. Responsible Party: Jeffrey London
1b. Address: 1937 Terry Road
Santa Rosa, CA 95403
2. Location of Violation in the City of Santa Rosa: 1937 Terry Road
3. Assessor Parcel Number: 148-100-025 Zoning District: RR-20
4. Date of Administrative Hearing: January 13, 2021
- | | | |
|-----|--|-------------------|
| 5a. | Letters, meetings, hearing preparation 16 hr.(s). @ \$181.00/hr. = | \$2,896.00 |
| 5b. | 5 site visit(s) 5 hr(s). @ \$181.00/hr. = | \$905.00 |
| 5c. | Senior Administrative Assistant – 4 hr(s). @ \$170.00/hr. = | \$680.00 |
| 5d. | Senior Code Enforcement Officer – 1 hr(s). @\$191.00/hr. = | \$191.00 |
| 5e. | Administrative Costs: | \$4,672.00 |
6. Total Administrative Costs: \$4,672.00
7. Administrative Hearing Time for Code Enforcement Officers 1.25 hr(s). @ \$181.00/hr. = \$ 226.25 (to be added by Hearing Officer after hearing)

Date: December 14, 2020

BY ORDER OF: Cassidy Anderson

Name: Cassidy Anderson
Title: Code Enforcement Officer
Telephone: 707-543-3229

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PROOF OF SERVICE BY MAIL

I am employed in the County of Sonoma, State of California. I am over eighteen years of age and not a party to the within action. My business address is 115 West First Street, Cloverdale, California 95425.

On January 25, 2021, I served the attached ADMINISTRATIVE ENFORCEMENT ORDER on the interested parties in this proceeding, by placing true copies of the documents in a sealed envelope, and mailing same with the United States Postal Service at Healdsburg, California, that same day addressed as follows:

1. Jeffrey London
1937 Terry Road
Santa Rosa, CA 95403
2. City of Santa Rosa
Cassidy Anderson, Code Enforcement Officer
100 Santa Rosa Avenue, Room 3
Santa Rosa, CA 95404

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on January 25, 2021, at Healdsburg, California.


Leonard C. Curry