

CITY OF SANTA ROSA
ADMINISTRATIVE ENFORCEMENT ORDER

ASSESSOR'S PARCEL NUMBER 037-124-014
211 THERESA STREET, SANTA ROSA, CALIFORNIA
FILE #CE13-0012 HEARING DATE NOVEMBER 10, 2021

OWNER/RESPONSIBLE PARTIES:

FLORENTINO VICENCIO; ANGELINA VICENCIO; MARGARITA VICENCIO

SUMMARY OF PROCEEDINGS

Santa Rosa City Code section 1-30.020 declares that a violation of the Santa Rosa City Code or any ordinance enacted by the Santa Rosa City Council is subject to an administrative fine or penalty. Pursuant to Santa Rosa City Code section 1-30.040, whenever a Code Enforcement Officer determines that a violation of an ordinance has occurred, the Code Enforcement Officer may issue an administrative notice and order to the responsible party for the violation.

On January 7, 2013 a complaint was received stating there was an unpermitted garage conversion and people were occupying the detached garage. On January 10, 2013 a Consent to Inspect letter was sent by Code Enforcement.

On January 28, 2013 a site inspection was conducted by Code Enforcement Officer Mark Maystrovich who observed an unpermitted addition to the rear of the detached garage into a living space along with hazardous electrical.

On February 4, 2013 a Notice of Violation letter was sent to the owner allowing thirty days to obtain permits and abate the violations.

On March 14, 2013 a demolition permit was obtained to remove the addition to the rear of the detached garage. The permit received final inspection on September 3, 2013, resolving the violation of the addition to the rear of the detached garage.

On August 15, 2015 a new complaint was received stating the detached garage had been converted to living space, that the garage door was blocked and that there was foot traffic of people coming and going from the detached garage.

On October 12, 2015, another complaint was received stating that an unpermitted addition to the rear of the garage was constructed and that people were living in the garage.

On December 18, 2015 a Consent to Inspect letter was sent by Code Enforcement. On May 2, 2016, a Second Consent to Inspect letter was sent by Code Enforcement.

On September 18, 2016, a new complaint was received stating that people were living in the garage and that there was an unpermitted addition.

On April 30, 2019, the case was assigned to Code Enforcement Officer Cassidy Anderson, who sent a Consent to Inspect letter. On May 29, 2019, Code Enforcement Officer Cassidy Anderson conducted an inspection and observed multiple violations throughout the dwelling, including an unpermitted garage conversion and electrical additions in the existing detached accessory structure.

On June 27, 2019, Code Enforcement Officer Cassidy Anderson sent the owners a Notice of Violation letter. On July 9, 2019, Code Enforcement Officer Cassidy Anderson received a voicemail from Margarita Vicencio who requested an appointment to discuss the Notice of Violation letter. The call was returned, and a voicemail left.

On July 10, 2019 Code Enforcement Officer Cassidy Anderson called Margarita Vicencio who stated she was driving and asked if Ms. Anderson could call back and leave a voicemail with directions. Ms. Anderson called back and left a voicemail message that Ms. Vicencio could schedule an in-person appointment with her and planning staff to review options regarding the unpermitted additions.

On January 2, 2020, Ms. Anderson sent a Consent to Inspect letter for compliance and/or progress inspection. On January 21, 2020 Ms. Anderson spoke to Margarita Vicencio and scheduled a progress inspection and sent an email confirming the time and date and with a copy of the most recent Notice of Violation letter attached.

On February 5, 2020 Margarita Vicencio called and stated that she was unable to make the inspection and asked to reschedule to the following week.

On February 12, 2020, Ms. Anderson conducted an inspection of the property. Progress was observed including the removal of mildew from the bathroom and there was no evidence that the detached garage was occupied. Violations within the detached garage still existed including unpermitted additions and hazardous electrical. Ms. Anderson drafted a Revised Notice of Violation letter and granted an extension and referred Ms. Vicencio to the building division to discuss the conversion of the detached garage and the electrical in the existing accessory structure.

On February 20, 2020, Ms. Anderson sent a revised Notice of Violation letter to the owner and tenant, granting 30 days to comply.

On May 25, 2021, a Notice of Violation – Failure to Abate letter with 14 days to comply was sent to the property owner.

On June 21, 2021, A Notice of Noncompliance was recorded and a copy of the Recorded Notice of Noncompliance was sent to the owners. Ms. Anderson called Margarita Vicencio and attempted to leave a voicemail, however, the voicemailbox was full. Ms. Anderson followed up with an email of the Recorded Notice of Noncompliance attached and requested that she be contacted for a status update and to schedule an inspection.

On June 24, 2021, Ms. Anderson had a phone conversation with Margarita Vicencio who requested direction on prioritizing goals for the violations on the property. She was told that the City needed to see progress and attempts to remedy the violations. After the phone call, Ms. Anderson sent an email clearly setting forth the violation priorities and included information on how to obtain the Residential Building Record.

On October 21, 2021, Ms. Anderson sent an Administrative Notice and Order to the owner via priority and regular mail, and posted the Administrative Notice and Order at the property. Margarita Vicencio was sent a copy of the Administrative Notice and Order via email, requesting that she call Ms. Anderson to set up an inspection prior to the Administrative Hearing for a compliance check.

On October 28, 2021, Ms. Anderson sent a copy of the Staff Report via email and priority mail and posted a copy at the property. October 29, 2021, Ms. Anderson had a phone conversation with Margarita Vicencio who stated that believed she was on title. Ms. Anderson obtained a copy of the grant deed to confirm this. Thereafter, Ms. Anderson advised Ms. Vicencio that she was on title and could appear as the owner of record at the Administrative Hearing. Ms. Vicencio confirmed that she had the proper technology and knowledge of Zoom and intended to appear at the Administrative Hearing. After that conversation, Ms. Anderson sent Ms. Vicencio an email with information as the required permits and how to submit a Building Permit Application and sample site plan.

On November 4, 2021, Margarita Vicencio called Ms. Anderson and stated that it had been difficult finding a contractor with availability. Ms. Anderson advised Ms. Vicencio that she could obtain a permit as owner builder. A site inspection was set for Monday, November 8, 2021.

On November 5, 2021, Ms. Vicencio, via email, submitted a building permit application for Ms. Anderson to review. Ms. Anderson advised that the permit application was incomplete and did not provide the required details in the description of work. Ms. Anderson made correction recommendations via email and advised Ms. Vicencio to resubmit the permit application for review.

On November 8, 2021, Ms. Anderson and Ms. Vicencio met at the property for a site inspection. The inoperable and unregistered vehicle was still stored on the property. Windows throughout were not weather tight; two windows had broken glazing including the living room and detached garage. Several insect screens were missing throughout. Keyed locks were present on both bedroom doors. Ms. Anderson observed that smoke detectors and a carbon monoxide detector were present, resolving violations 6 and 7. Ms. Anderson also observed that the unauthorized use of extension cords was removed resolving violation 12. Flexible piping was still present in the bathroom. Ms. Anderson observed that mildew and mold surrounding the ceiling had returned. Ms. Anderson discussed the presence of mold and mildew on site with Ms. Vicencio. The violations numbered 1-5, and 8-11, reflected on the October 21, 2021 Administrative Notice and Order remained as of November 8, 2021.

Pursuant to Santa Rosa City Code section 1-30.070, the purpose of this hearing is to provide a review of the Administrative Notice and Order dated October 21, 2021, in which the owner/responsible parties had been given up to and including October 31, 2021 to correct/abate all violations. This virtual Zoom hearing was conducted by Administrative Hearing Officer Charles J. Tarr, duly appointed pursuant to Santa Rosa City Code section 1-30.080, and was duly convened on November 10, 2021.

Code Enforcement Officer Cassidy Anderson was in attendance and provided testimony and documentary evidence on behalf of the City of Santa Rosa in support of the Administrative Notice and Order. City employee Lizzette Marquez testified as to her conversation with owner

Angelina Vicencio regarding the violations. Responsible party Margarita Vicencio appeared and presented testimony on behalf of the responsible parties/owners. Based on the testimony of Cassidy Anderson and Margarita Vicencio and the admission of the grant deed into evidence, the Administrative Notice and Order and this Order shall reflect that Margarita Vicencio is included as an additional "Responsible Party" as she was inadvertently omitted. Testimony and documentary evidence established that Margarita Vicencio is an owner and had notice of all proceedings. Prior to testifying, all witnesses were placed under oath.

EXHIBITS

Prior to the hearing, Code Enforcement tendered the following documents to the hearing officer which were received into evidence and marked as indicated:

Exhibit 1 (collectively) 121-page staff report with included documents and photos

Exhibit 2 (collectively):

- 1) Revised introduction and chronological case facts
- 2) Administrative Notice and Order posting photographs dated 10/21/2021
- 3) Staff Report Posting photographs dated 10/28/2021
- 4) Grant Deed (labeled as title report)
- 5) Site inspection photographs dated November 8, 2021

FINDINGS OF FACT

SERVICE OF DOCUMENTS

Based on the documentary evidence and oral evidence, the Hearing Officer finds that the Administrative Notice and Order and its attachments upon which this hearing is based were duly served. Responsible party Margarita Vicencio was in attendance at the hearing as an authorized party and owner.

VIOLATIONS

Appendix No. 5 to the Administrative Notice and Order sets forth the following violations as to which the following findings of fact are made, having been proven by a preponderance of the evidence:

Violation # 1 – Inoperable vehicle parked on front lawn and behind front gate

FINDING OF FACT AS TO VIOLATION #1

Based on oral testimony, and photographic and other documentary evidence, the violation was established and had not been corrected. SRCC Sec. 18-20.302.8.

Violation #2 -- Windows throughout in poor condition

FINDINGS OF FACT AS TO VIOLATION #2

Based on oral testimony, and photographic and other documentary evidence, the violation was established and had not been corrected. SRCC Sec. 18-20.304.2.

Violation #3 -- Windowpane glazing in living room broken

FINDING OF FACT AS TO VIOLATION #3

Based on oral testimony, and photographic and other documentary evidence, the violation was established and had not been corrected. SRCC Sec. 18-20.304.13.1.

Violation #4 -- Insect screens missing from several windows

FINDING OF FACT AS TO VIOLATION #4

Based on oral testimony, and photographic and other documentary evidence, the violation was established and had not been corrected. SRCC Sec. 18-20.304.14

Violation #5 -- Keyed locks throughout-replace bedroom door locks with passkey style

FINDING OF FACT AS TO VIOLATION #5

Based on oral testimony, and photographic and other documentary evidence, the violation was established and had not been corrected. SRCC Sec. 18-20.304.15.

Violation #6 -- Smoke alarms missing or inoperable

FINDINGS OF FACT AS TO VIOLATION #6

Based on oral testimony, and photographic and other documentary evidence, the violation was established and had been corrected. SRCC Sec. 18-20.704.2.1.

Violation #7 -- Missing carbon monoxide detectors

FINDINGS OF FACT AS TO VIOLATION #7

Based on oral testimony, and photographic and other documentary evidence, the violation was established and had been corrected. SRCC Sec. 18-44.420.6.2.

Violation #8 -- Flexible pipe installed under bathroom sink/unauthorized material

FINDINGS OF FACT AS TO VIOLATION #8

Based on oral testimony, and photographic and other documentary evidence, the violation was established and had not been corrected. SRCC Sec. 18-20.504.1

Violation #9 -- Detached garage chipping, peeling and abraded paint

FINDINGS OF FACT AS TO VIOLATION #9

Based on oral testimony, and photographic and other documentary evidence, the violation was established and had not been corrected. SRCC Sec. 18-20.304.2.

Violation #10 – Conversion of garage without proper plans approval and permit

FINDINGS OF FACT AS TO VIOLATION #10

Based on oral testimony, and photographic and other documentary evidence, the violation was established and had not been corrected. SRCC Sec. 18-16.R105.1, 18-16.R110.1, 18-16.114.1

Violation #11 – Installation of electrical in rear yard accessory structure without proper plans approval and permit

FINDINGS OF FACT AS TO VIOLATION #11

Based on oral testimony, and photographic and other documentary evidence, the violation was established and had not been corrected. SRCC Sec. 18-32.89.108.4.1, 18-32.89.108.4.4.

Violation #12 – Unauthorized use of extension cord as permanent source of power in unpermitted garage conversion

FINDINGS OF FACT AS TO VIOLATION #12

Based on oral testimony, and photographic and other documentary evidence, the violation was established and had been corrected. SRCC Sec. 18-20.604.3.

CONCLUSIONS OF LAW

1. The Owners/Responsible parties violated each of the provisions of the City of Santa Rosa City Code referenced in the above findings of facts and as alleged in the Administrative Notice and Order.
2. The existence of all violations and other facts required have been established by a preponderance of the evidence.
3. Imposition of penalties and administrative costs are mandatory
4. Pursuant to Santa Rosa City Code section 1-30.030 and Ordinance No: ORD-2017-021, the violations constitute a public nuisance.

PENALTIES

The hearing officer is tasked with determining the appropriate penalty to be imposed based upon a number of factors. The penalty must not only impose financial punishment but also incentivize the owners/responsible parties to correct all the violations. Factors in setting the penalty include the seriousness of the violations, length of time the violations have existed, degree of cooperation and/or diligence or lack thereof, effect on other properties and culpability, including economic incentive or benefit. Of import in setting penalties is the effect of a violation human health and safety.

An aggravating factor is the length of time the violations have existed, the number of complaints and lack of cooperation or diligence by the owner/responsible party in correcting the violations notwithstanding directives and communications from Code Enforcement.

Code Enforcement acknowledged that because of Covid restrictions and an ensuing labor shortage and the owner's testimony that she encountered difficulty in locating and hiring qualified contractors and/or laborers, some flexibility in the time granted for all corrections should be considered. As of the date of this hearing, violations 6, 7 and 12 had been corrected. Violations 1 through 5 and 8 through 11 remained.

Based on Ms. Vicencio's testimony in response to inquiry from the Hearing Officer, she agreed that violations 1 through 5, being minor in nature, could presently be addressed but that additional time to locate and hire contractors or skilled labor would be required as a plumber was needed for violation 8, a painter was needed for violations 9, assistance was required to apply for and obtain a building permits as to violation 10 and time was needed to hire an electrician for violation 11. Code Enforcement agreed that some additional time may be required for those items requiring skilled trades or contractors and permitting.

~~Code Enforcement sought penalties for all violations not corrected by October 31, 2021 with penalties commencing November 1, 2021. At the time of this hearing on November 10, 2021, nine violations remained. Based on the nature of those violations and the discussion above, the Hearing Officer imposes a daily fine collectively for those nine violations in the amount of \$100 per day for each violation total of \$9,000 to the date of this hearing. As for violations 1 through 5 as to which Ms. Vicencio committed to early resolution, the penalty continues from November 10, 2021 at the rate of \$100 per day for each of the violations until corrected. As to violations 8 through 11 for which additional time to correct was required, if as of December 21, 2021, the date of this order, any of those violations have not been corrected, absent a further extension by Code Enforcement, penalties are imposed and begin accruing as of December 21, 2021 at the rate of \$150 per day for each such violation until corrected.~~

ADMINISTRATIVE COSTS

Costs incurred by the City of Santa Rosa including but not limited to any administrative overhead, salaries and expenses and Administrative Hearing Officer fees and costs are to be recovered pursuant to Santa Rosa City Code section 1-30.100(D).

As set forth on the Administrative Costs Calculation Sheet, Appendix No. 7-E of hearing Exhibit 1, the Administrative Costs sought to be recovered as of the date of the hearing were \$1266.00 plus an additional amount to be added for Code Enforcement Officer time at the hearing at \$181.00 per hour. The Hearing Officer finds 1.0 hours attributable to the hearing, for an additional cost item of \$181.00. Total Code Enforcement administrative costs to be recovered are \$1447.00.

Administrative Hearing Officer fees and costs for hearing preparation, conducting the hearing, review of evidence and applicable law and preparation and service of the Administrative Enforcement Order are \$2013.64. Total abatement costs to be recovered are \$3460.64

~~F. This shall serve as notice to the responsible party that if the penalties and administrative costs as ordered are not received within 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 penalty for a subsequent violation within thirty-six months of an initial violation is \$1,000 for each day the violation continues. Pursuant to City Council Resolution 26900, any penalty may be deemed either a special assessment lien against the property where the violation occurred or a personal obligation of the party responsible for the violation.~~

G. The owners/responsible parties shall cease and desist from permitting the violations to continue or from repeating the same or similar violations.

DATED: December 21, 2021



Charles J. Tarr

Administrative Hearing Officer

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Mr. Joseph Moody/Jenny Marquez

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Charles J. Tarr

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