

City of Santa Rosa
Administrative Hearings
100 Santa Rosa Ave.
Santa Rosa, CA 95404

File # CE 19-0075

ADMINISTRATIVE ENFORCEMENT ORDER

- 1-A Responsible Party: Lucille Weinschelbaum, Trustee of the Lucille Weinschelbaum Revocable Trust**
- 1-B Address: 641 McMaster Lane, Santa Rosa, CA 95407**
- 2. Location of Violation: 641 McMaster Lane/1110 West Ave., Santa Rosa, CA 95407**
- 3. APN: 125-271-009 Zoning District: PD**
- 4. Administrative Hearing Officer's Decision:**

A Noticed Hearing was held on June 12, 2019 commencing at 1:00 p.m. in the Santa Rosa City Council Chambers located at 100 Santa Rosa Ave before the undersigned regarding violations alleged by the City of Santa Rosa ("City") of the Santa Rosa City Code at the above referenced property. Present at the hearing was City of Santa Rosa Code Enforcement Technician Lizzette Marquez, on behalf of the "City". Responsible Party Lucille Weinschelbaum failed to appear at the hearing and no one appeared on behalf of the Responsible Party or filed any response on behalf of the Responsible Party.

After consideration of the testimony Ms. Marquez presented and the documentary evidence contained in the staff report dated May 28, 2019, including pages 1 through 74 inclusive, consisting of Certificate of Service, Administrative Notice and Order, Penalty Calculation Worksheet, Complaint Log, Property Detail Report, Vicinity Map, Notice of Complaint dated October 3, 2018, Notice of Violation, Failure to Abate dated October 13, 2016, Notice of Noncompliance recorded on March 29, 2017, Notice of Complaint dated February 19, 2018, Notice of Violation, Failure to Abate dated March 6, 2019, Site inspection Photos dated September 27, 2016, March 8, 2017, February 19, 2019, March 6, 2019, May 9, 2019 and additional documentation presented by Ms. Marquez identified as Site Inspection Photos dated June 12, 2019 and June 3, 2019, 7 letters from Recology to the homeowners on McMaster Lane, and two quit claim deeds identifying the Lucille Weinschelbaum Revocable Trust as owner

of a ½ undivided interest in the property, Lucille Weinschelbaum as Trustee, the hearing officer makes the following findings:

- A. The City has complied with all applicable notice requirements for the hearing, and
- B. The record contains sufficient evidence to show that the Responsible Party is in violation of the Code section(s) listed below that are set forth in the Staff Report dated May 28, 2019 and the Administrative Notice and Order issued in this matter by the "City" on May 7, 2019:

Violation #1

SRCC Sec. 13-32.010-Trees-Property Owner Maintenance Responsibility and Duty to Public-Liability. Failure to maintain trees on property in a non-dangerous condition such that plants do not interfere with the public convenience or safe use of the street or sidewalk.

- C. The Administrative Notice and Order of May 7, 2019 is modified as follows:

Responsible Party is **HEREBY ORDERED** to correct the violations set forth above by doing the following:

- 1. Trim, prune and maintain (or remove permanently) the trees, shrubs, hedges and landscaping on McMaster Lane back to the fence line (i.e., back side of curb) to ensure vegetation does not interfere with the public use of the street.

Responsible party is **HEREBY ORDERED** to cease and desist from permitting the violation(s) set forth above or from repeating the existing or similar violations;

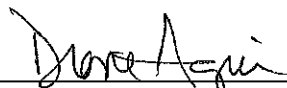
- D. Based on these findings, I assess a penalty of \$ 2,500.00 (see attached penalty calculation sheet) plus administrative costs against the Responsible Party in the amount of \$ 2,636.50 which includes the cost incurred for the appearance of Ms. Marquez on behalf of the City at the hearing for .50 hours. In addition, the cost of the Administrative Hearing Officer of \$ 375.00 shall be an additional administrative cost chargeable to the Responsible Party, which cost includes preparation for the hearing, hearing time, review and analysis of the applicable law, the testimony and documentary evidence, rendering and preparation of this decision, and service of this order by mail upon the responsible party and the City's Code Enforcement Technician Ms. Marquez.
- E. I shall serve by mail this Administrative Enforcement Order on each party and their attorney, if any, and the Code Enforcement Technician Ms.

Marquez. When the Administrative Enforcement Order is served by mail on the Code Enforcement Technician, the Order shall be final.

- F. This shall serve as notice to the Responsible Party that the penalties and administrative costs are special assessments against the subject property where the violations occurred and if payment is not received within thirty (30) days of the date of this Order, it will be confirmed by the City Council. The penalty for late payment of the assessed penalty is 7% pro-rated daily from the payment due date.
- G. Should violations continue the Responsible Party may be subject to additional penalties as authorized by law. The penalty for a subsequent violation within thirty-six (36) months of an initial violation is up to \$1,000.00 for each day the violation continues.
- H. Within twenty (20) days of this Order, the responsible party shall take corrective action to remedy the violation(s), by trimming, pruning and maintaining the trees and bushes alongside McMaster Lane back to the fence line so as not to interfere with the public use of the street, or to remove all trees, bushes and shrubs along the fence line permanently.
- I. Should responsible party fail to take the corrective action to remedy the violation within twenty (20) days of this Order, the City of Santa Rosa shall abate the violation pursuant to SRCC 1-30.100 (F) (4) and the Responsible Party shall be responsible for the cost.
- J. Pursuant to SRCC Section 1-30.210, a copy of which is attached to the Administrative Notice and Order served by mail on May 7, 2019, any person contesting the Administrative Order may seek review by filing an appeal with the Sonoma County Superior Court within twenty (20) days of this Order.

Dated: June 14, 2019

BY ORDER OF



DIANE AQUINO

Administrative Hearing Officer

PENALTY CALCULATION SHEET

- 1 a. Responsible Party: Lucille Weinschelbaum, Trustee of the Lucille Weinschelbaum Revocable Trust
- 1 b. Address: 641 McMaster Lane, Santa Rosa, CA 95407
2. Location of Violation: 641 McMaster Lane/1110 West Ave., Santa Rosa, CA 95407
3. APN: 125-271-009
4. The penalty for each initial code violation is up to \$500.00 per day for each day the violation continues. In this proceeding, there is one (1) violation.
5. Date Violations were to be corrected: June 2, 2019
6. Date of Administrative Hearing: June 12, 2019
7. Number of Days between dates listed in items 5 and 6 above: ten (10) days
Total penalty assessed is \$ 2,500.00
10 days x \$250.00 per day 1 (one) violation
8. Administrative costs are assessed in the sum of \$ 1,298.80 which are as follows:
- | | | |
|--|-------|------------------|
| A. Letters, meetings, hearing preparation | | |
| 5.0 hrs. @ \$ 181.00 per hour | | \$ 905.00 |
| B. 5 site visits, total of 5.0 hrs. @ \$181 per hour | | \$ 905.00 |
| C. Sr. Administrative Assistant 1.0 hr.@ \$170.00 per hr. | | \$ 170.00 |
| D. Sr. Code Enforcement Officer 1.0 hr. @ 191.00 per hr. | | \$ 191.00 |
| E. Administrative Hearing time .50 hr.@\$181.00 per hr. | | \$ 90.50 |
| E. Hearing Officer time 1.5 hrs. @\$250.00 per hr. | | <u>\$ 375.00</u> |
| | Total | \$2,636.50 |
- Total administrative costs: \$2,636.50
- Penalty from item 7: \$2,500.00
- Total penalties and costs: \$5,136.50

PROOF OF SERVICE

I declare as follows:

I am over the age of 18 years and not a party to the within action. My business address is 418 B Street, Santa Rosa, CA 95401.

On June 14, 2019, I served the attached:

ADMINISTRATIVE ENFORCEMENT ORDER

For

641 McMaster Lane, Santa Rosa, CA 95407

on the following parties by placing a true copy therein a sealed envelope addressed as follows:

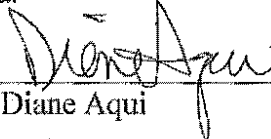
Lucille Weinschelbaum, Trustee
1110 West Ave.
Santa Rosa, CA 95407

Lizzette Marquez, Code Enforcement Technician
Santa Rosa Building and Code Compliance Division
100 Santa Rosa Ave.
Santa Rosa, CA 95404

By Regular U.S. Mail. The documents were placed for collection and mailing, following ordinary business practice for deposit in the United States Postal Service, in a sealed envelope, with the postage thereon fully prepaid, addressed as stated.

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

Executed on June 14, 2019, at Santa Rosa, California.



Diane Aqui