

Original Enforcement Order Modified to Remove Penalties

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

File # CE19-0160

ADMINISTRATIVE ENFORCEMENT ORDER

Property Address: 2004 Shelbourne Way, Santa Rosa, CA 95403

Responsible Party: Joseph Condiotti and Brian Garrison

APN: 034-390-044-000 Zoning District: PD 0266-RC

Administrative Hearing Officer's Decision:

A Noticed Hearing was held on January 22, 2020 commencing at approximately 1:15 p.m., in the Santa Rosa City Council Chambers at 100 Santa Rosa Avenue, before the undersigned ("Hearing Officer") regarding the allegations by the City of Santa Rosa ("City") of an unabated violation of Santa Rosa City Code Section 20-34.070.B.4.c ("Section. 20-34.070.B.4.c") at the above property ("property"). Present at the Hearing on behalf of City was Code enforcement Officer, Lizzette Marquez ("Ms. Marquez"). No appearance was made by, or on behalf of Responsible Party(s), Joseph Condiotti and Brian Garrison ("Responsible Party").

Prior to the Hearing, the Hearing Officer was provided with the Administrative Hearing Staff Report and supporting documents ("Report"), prepared by Ms. Marquez, consisting of 47 pages, plus an index. The Report includes proof that Responsible Party was served, by personal delivery, and by U.S. Mail, with copies of the Report, including the Administrative Notice and Order issued December 5, 2019, which gave written notice of the Hearing. The Hearing Officer reviewed the Report in its entirety before the Hearing.

Ms. Marquez was sworn and testified at the Hearing. She authenticated her Report, including all photos therein depicting the property. She introduced and authenticated additional photos of the property taken on January 13, 17 and 22, 2020. She also introduced and authenticated an "Administrative Notice and Order" dated January 21, 2020, which included exhibits styled "Penalty Calculation Sheet"(Appendix No. 7-F) and "Administrative Costs Calculation Sheet"(Appendix No. 7-E). She also introduced a written request that Responsible Party abate the violation of Section 20-34.070.B.4.c, within seven (7) days of this Order, and that City be authorized to hire an independent contractor to abate the violation should Responsible Party fail to timely comply with the Hearing Officer's Order. The written request also asked the Hearing Officer serve this Decision within seven (7) days. These additional photos and documents were received in evidence by the Hearing Officer.

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

- A. City has complied with all notice requirements for the Hearing.
- B. Responsible Party is in violation of Section 20-34.070.B.4.c, for failing to remove the dead, decayed, diseased and hazardous trees, which constitute an unsightly appearance, are dangerous to public safety and welfare or detrimental to neighboring properties or property values.
- C. Good cause exists for an Order requiring Responsible Party to remove the hazardous trees from the property within seven (7) days of this Order. In the event Responsible Party fails to timely remove the hazardous trees, City may - without further Order from Hearing Officer - hire an independent contractor to enter upon the property, remove the hazardous trees, and charge Responsible Party with all costs incurred by City in causing the removal of such trees.
- D. The Administrative Notice and Order dated December 5, 2019, and the updated Administrative Notice and Order dated January 21, 2020 (received in evidence at the Hearing), are upheld.

Responsible Party **IS HEREBY ORDERED** to correct the above violation by doing the following:

Within seven (7) days of the date of this Order becomes final, cause the removal of all hazardous trees at the property, and have such removal inspected by representatives of City. City may grant Responsible Party extensions of time for inspection of the property after removal of the hazardous trees, if City requires additional time to make such inspection.

IT IS FURTHER ORDERED that:

Should Responsible Party fail to remove the hazardous trees from the property within seven days of the date this Order becomes final, City is authorized to hire an independent contractor to remove such hazardous trees. Should this occur, City and the hired contractor are authorized to enter upon the property to remove the hazardous trees. All costs incurred by City in hiring a contractor to remove the hazardous trees are deemed to be an additional charge Responsible Party shall owe to City.

Responsible Party **IS ORDERED TO CEASE AND DESIST** from allowing the hazardous trees to remain on the property, or from interfering with any actions by City or City's hired contractor to remove the hazardous trees.

E. The Hearing Officer assesses a ~~Penalty~~ and Administrative Costs to Responsible Party as follows:

- ~~1. The Hearing Officer assesses a Penalty of \$ 5,000.00. See attached copy of "PENALTY CALCULATION SHEET" for an itemization of how this Penalty is calculated.~~

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2. 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 at the Hearing, which itemizes the Administrative Costs incurred by City prior to the Hearing. Those pre-hearing costs were \$ 1,266.00. Because of the appearance of Ms Marquez at the Hearing, the Administrative Costs are increased by \$ 36.20 (\$ 181.00/hr. x .20 hours). Total City Administrative Costs assessed are \$ 1,302.20.

b. Per Santa Rosa City Code Section 1-30.030, the services of the Hearing Officer are an Administrative Cost. The Hearing Officer's time includes reading the Report, preparing for the Hearing, travel, Hearing time, review of applicable law/Santa Rosa City Code Sections, considering all oral and documentary evidence presented and received at the Hearing, preparing the Administrative Enforcement Order, and service of this Order by mail on the Responsible Party and Ms. Marquez. The additional Administrative Costs assessed herein to Responsible Party for the services of the Hearing Officer on this case are \$ 662.50.

~~**Total Penalty assessed against Responsible Party: \$ 5,000.00**~~


Total Administrative Costs assessed against Responsible Party: \$ 1,964.70

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

G. This Order shall serve as notice to the 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 30 days of the date this Order becomes final. ~~Should Responsible Party cause any delay in City's efforts to remove the hazardous trees (i.e.: preventing access to the property), and the above violation continues, Responsible Party may be subject to additional penalties authorized by law.~~

H. Pursuant to Santa Rosa City Code Section 1-30.120, a copy of which is on page 011 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 28, 2020

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

Amended File # CE19-0160

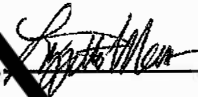
PENALTY CALCULATION SHEET

Appendix No. 7-F

- 1a. Responsible Party: Joseph Condiotti & Brian Garrison
- 1b. Address: 1017 W Railroad Ave.
Cotati, CA 94931
2. Location of Violation in the City of Santa Rosa: 2004 Shelbourne Way
3. Assessor Parcel Number: 034-390-044 Zoning District: PD 0266-RC
4. The penalty for an initial violation is up to **\$500.00** for each day the violation continues.
5. Date Violations were to be corrected: January 12, 2020
6. Date of Administrative Hearing: January 22, 2020
7. Number of Days between Line 5 and Line 6: 10 violations x \$500.00/day x 10 days =
\$5,000.00
8. Total Assessment: \$5,000.00

Date: 1-21-2020

BY ORDER OF: _____



Name: Lizzette Marquez
Title: Code Enforcement Officer
Telephone: 707-543-3235

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100 Santa Rosa Avenue
Santa Rosa, California 95404

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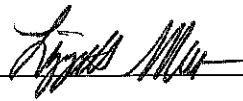
ADMINISTRATIVE COSTS CALCULATION SHEET

Appendix No. 7-E

- 1a. Responsible Party: Joseph Condiotti & Brian Garrison
1b. Address: 1017 W Railroad Ave.
Cotati, CA 94931
2. Location of Violation in the City of Santa Rosa: 2004 Shelbourne Way
3. Assessor Parcel Number: 034-390-044 Zoning District: PD 0266-RC
4. Date of Administrative Hearing: January 22, 2020
- | | | |
|-----|--|------------------|
| 5a. | Letters, meetings, hearing preparation 2 hr(s). @ \$181.00/hr. = | \$362.00 |
| 5b. | 3 site visit(s) @ hr(s). @ \$181.00/hr. = | \$543.00 |
| 5c. | Senior Administrative Assistant -1 hr(s). @ \$170.00/hr. = | \$170.00 |
| 5d. | Senior Code Enforcement Officer - 1 hr(s). @\$191.00/hr. = | \$191.00 |
| 5e. | Administrative Costs: | \$1266.00 |
6. Total Administrative Costs: \$1266.00
7. Administrative Hearing Time for Code Enforcement Officers _____ hr(s). @ \$181.00/hr. = \$ _____ (to be added by Hearing Officer after hearing)

Date: 1-21-2020

BY ORDER OF: _____



Name: Lizzette Marquez
Title: Code Enforcement Officer
Telephone: 707-543-3235

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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 28, 2020, 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. Joseph Condiotti
Brian Garrison
1017 W. Railroad Avenue
Cotati, CA 94931
2. City of Santa Rosa
Lizzette Marquez, Code Enforcement Officer
100 Santa Rosa Avenue
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 28, 2020, at Healdsburg, California.


Leonard C. Curry