

Original Enforcement Order Modified to Remove Penalties

ATTACHMENT 1

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

File # CE 18-1074

ADMINISTRATIVE ENFORCEMENT ORDER

1-A Responsible Party(ies): Eleanor B. Copeland, Trustee

1-B Address: 378 Los Alamos Road, Santa Rosa, CA 95409

2. Location of Violation: 378 Los Alamos Road, Santa Rosa, CA 95409

3. APN: 031-310-042 Zoning District: PD 0061-SR

4. Administrative Hearing Officer's Decision:

A Noticed Hearing was held on December 11, 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 Officer Megan Lackie on behalf of the "City". Responsible Party(ies) Eleanor B. Copeland, Trustee, was not present.

After consideration of the testimony Ms. Lackie presented, the testimony of witness Sherri Kostosky [neighbor of Responsible Party], the 38 pages of documentary evidence dated December 11, 2019, including the Staff Report, Certificate of Service, Administrative Notice and Order dated October 31, 2019, Penalty Calculation Worksheet, Complaint Log, Property Detail Report, Vicinity Map, January 8, 2019 Administrative Citation, February 1, 2019 site inspection photos, April 12, 2019 Failure to Abate violation letter, October 31, 2019 site inspection photos, and additional documentation presented by Ms. Lackie at the hearing identified as 4 Site Inspection Photos dated December 2 and 5, 2019, 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**

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Report dated December 11, 2019 and the Administrative Notice and Order issued in this matter by the "City" on October 31, 2019:

Violation #1

SRCC Sec. 9-20.070 Prohibition of smoking in multifamily residences.
Smoking inside of unit, detached garage and on back patio.

- C. The Administrative Notice and Order of October 31, 2019 is modified as follows:

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

1. Stop smoking inside of residence, detached garage, and back patio. Smoking must be done in the designated smoking area located at least 25 feet from all perimeter property lines abutting residential to minimize the impacts of outdoor smoking on adjacent property owners. Responsible Party may use an electronic smoking device in the outdoor common areas provided that use is prohibited within a reasonable distance from enclosed areas and prohibited within 25 feet of unenclosed recreational areas primarily used by children and prohibited within 25 feet of unenclosed areas with improvements such as playgrounds, tennis courts, swimming pools and sports fields.

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 \$1,500 (~~see attached penalty calculation sheet~~) plus administrative costs against the Responsible Party(ies) in the amount of \$ 2,082.50 which includes the cost incurred for the appearance of Ms. Lackie 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(ies), 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(ies) and the City's Code Enforcement Officer Ms. Lackie.
- E. I shall serve by mail this Administrative Enforcement Order on each party and their attorney, if any, and the Code Enforcement Officer Ms. Lackie. When the Administrative Enforcement Order is served by mail on the Code Enforcement Officer, the Order shall be final.

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- 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, the City may seek to enforce it through judicial review. ~~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 thirty (30) days from the date of this Order, the responsible party shall take corrective action to remedy the violation(s), by abstaining from smoking inside of residence, detached garage, and back patio. Smoking must be done in the designated smoking area located at least 25 feet from all perimeter property lines abutting residential to minimize the impacts of outdoor smoking on adjacent property owners. Responsible Party may use an electronic smoking device in the outdoor common areas provided that use is prohibited within a reasonable distance from enclosed areas and prohibited within 25 feet of unenclosed recreational areas primarily used by children and prohibited within 25 feet of unenclosed areas with improvements such as playgrounds, tennis courts, swimming pools and sports fields.
- I. Pursuant to SRCC Section 1-30.210, a copy of which is attached to the Administrative Notice and Order served by mail on October 31, 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: December 23, 2019

BY ORDER OF


DIANE AQUINO

Administrative Hearing Officer

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PENALTY CALCULATION SHEET

- 1 a. Responsible Party(ies): Eleanor B. Copeland, Trustee
- 1 b. Address: 378 Los Alamos Road, Santa Rosa, CA 95409
2. Location of Violation: 378 Los Alamos Road, Santa Rosa, CA 95409
3. APN: 031-310-042
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: December 1, 2019
6. Date of Administrative Hearing: December 11, 2019
7. ~~Number of Days between dates listed in items 5 and 6 above: ten (10) days~~
~~Total penalty assessed is \$ 1,500.00~~
~~10 days x \$150 per day x one (1) violations~~
8. Administrative costs are assessed in the sum of \$ 2,082.50 which are as follows:

A. Letters, meetings, hearing preparation

3.0 hrs. @ \$ 181.00 per hour \$ 543.00

B. 3 site visits, total of 3.0 hrs. @ \$181 per hour \$ 543.00

C. Senior Administrative Assistant 2.0 hrs. @170.00 per hr. \$ 340.00

D. Sr. Code Enforcement Officer 1.0 hrs.@ \$191.00 per hr. \$ 191.00

E. Administrative Hearing time .50 hr.@ \$181.00 per hr. \$ 90.50

F. Hearing Officer time 1.5 hrs. @ \$250.00 per hr. \$ 375.00

Total \$ 2,082.50

Total administrative costs: \$ 2,082.50

Penalty from item 7: \$ 1,500.00

Total penalties and costs: \$ 3,582.50

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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 December 24, 2019, I served the attached:

ADMINISTRATIVE ENFORCEMENT ORDER


For

378 Los Alamos Road,
Santa Rosa, CA 95409

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

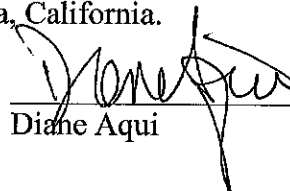
Eleanor B. Copeland, Trustee
378 Los Alamos Road,
Santa Rosa, CA 95409

Megan Lackie, Code Enforcement Officer
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. on the attached service list.

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

Executed on 12.24, 2019, at Santa Rosa, California.



Diane Aqui