



Legislation Text

File #: 20-98, Version: 3

Memorandum

Date: March 3, 2020

To: The Honorable Moke Simon, Chair, Lake County Board of Supervisors

From: Scott DeLeon, Community Development Director
Andrew Williams, Code Enforcement Manager
Marcus Beltramo, Code Enforcement Officer

Subject: Notice of Lien Hearing for Robert Kowal; 3065 Gardner Rd. Nice

Exhibits:

1. Notice of Assessment and Certified Mail Receipt
2. Photos Before Abatement
3. Grant Deed
4. Notice of Nuisance and Order to Abate 9-12-2018
5. Notice of Nuisance and Order to Abate 9-26-2019
6. Photo of Placement of 9-12-2018 NONOTA
7. Returned to Sender NONOTA 9-13-2018
8. Photo of Placement of 9-26-2019 NONOTA
9. Certified Mail Receipt with Signature
10. Final Notice, Certified Mail Receipt, Returned to Sender 10-28-2019
11. Property Tax Delinquency
12. Abatement Quotes
13. 24 Hour Notice
14. Photos After Abatement
15. Task Sheet

Executive Summary: (include fiscal and staffing impact narrative):

I. PROPERTY DESCRIPTION:

Property Owner: Kowal, Robert
Property Address: 3065 Gardner Rd., Nice, CA (property)
APN: 031-142-170
Zoning: "R1", Single Family Residential District
Existing Conditions: Prior to the abatement action, the property was a vacant lot with an existing accessory structure (shed); with no existing primary structure (single family dwelling) or use.

II. SPECIAL ASSESSMENT LIEN:

California Government Code 38773.1 (c) states a nuisance abatement lien shall be recorded in the county recorder's office in the county in which the parcel of land is located.

California Government Code 38773.5 (a) allows an alternative to the procedure authorized by Section 38773.1, the legislative body may by ordinance establish a procedure for the abatement of a nuisance and make the cost of abatement of a nuisance upon a parcel of land a special assessment against that parcel.

California Government Code 38773.5 (d) authorizes if the lien is not paid within three years, a city or the county may foreclose on non-residential and vacant residential property. *(The property is considered a vacant residential property.)*

III. NOTICE OF SPECIAL ASSESSMENT LIEN HEARING:

In accordance with Lake County Code Chapter, Chapter 13, Article VI, Section 13-41.1 (Notice of Assessment) and Section 13-41.2 (Hearing on Account and Proposed Assessment), a "Notice of Special Assessment" was prepared and mailed via certified mail to the property owners reflected on title per County records and posted on/at the property. In addition, the Notice of Special Assessment Lien was placed in the Lake County Recorder-Bee and Lake County News. ***(Exhibit 1)***

IV. ABATEMENT SUMMARY

Basis for Investigation:

Three (3) separate complaints (two (2) anonymous and (1) by the citizens of the Gardner Rd. community) were received by the Code Enforcement Division alleging: an "...old shed has trash packed up inside of it and more garbage in plastic bags on one side and a white mattress in front of the shed. This shed is home to rodents." In addition, citizens voiced concerns brush was being dumped on the property causing a fire hazard and the shed was being used as a place for drug use, with drug paraphernalia being left on the property. ***(Exhibit 2-Photos before abatement action)***

Property Owner:

According to County records, the property owner/responsible party was identified as Robert Kowal based on the grant deed and Tax Collector information. ***(Exhibit 3)***

Formal Action:

On September 12, 2018, the property was deemed not to be in compliance with the County Code. A "Notice of Nuisance and Order to Abate" (NONOTA) was issued for the property ***(Exhibit 4)***. The NONOTA cited violations of:

- Open and Outdoor Storage - LCZO 21-41.12.
- Failure to dispose of trash - LCC 13-11.
- Failure to remove or maintain weeds - LCC 13-10.
- Unpermitted construction of shed - 2013 California Building Code Section 105.1

On September 26, 2019, the property was deemed not to be in compliance with the County Code. A NONOTA ***(Exhibit 5)*** was issued for the property. The NONOTA provided thirty (30) days to correct the violations persisting on the property. The NONOTA cited violations of:

- Unpermitted Structure - The property is zoned "R1", its primary use is for a single family dwelling. Situated on the property is an unpermitted shed, an accessory structure with no single family dwelling - LCC 5-4, 2016 CA Building Code Section 105.
- Hazardous vegetation and/or combustible materials (brush and dead or dying vegetation). - LCC 13-60.31.
- Trash, rubbish, and/or refuse - LCC 13-3.1 (e) (7)
- Open and Outdoor Storage - LCZO - 41.12

Service:

Service of the NONOTA was made in accordance with Chapter 13, Section 13-6.2 (a) (1):

For the September 12, 2018 NONOTA, attempts were made to provide the property owner notice by:

- Posting the NONOTA on/at a conspicuous place on the property. **(Exhibit 6)**
- On September 13, 2018, the NONOTA was mailed via certified mail to the property owners address listed with County records. The certified mail was returned to sender. **(Exhibit 7)**

For the September 26, 2019 NONOTA, attempts were made to provide the property owner notice by:

- Posting the NONOTA on/at a conspicuous place on the property. **(Exhibit 8)**
- Mailing the NONOTA via certified mail to the property owner, Robert Kowal at his address listed with County records, 10495 Homestead Lane, Plymouth, MI. A signature was obtained for the certified mailing. **(Exhibit 9)**
- On October 28, 2019, a "Final Notice" was mailed via certified mail to the property owner, Robert Kowal, to the address listed with County records. This mailing was returned to sender. **(Exhibit 10)**
- An internet search was conducted for the Robert Kowal and no information was found.

Note of Interest:

Delinquent property taxes exists on the property starting in 2011 to 2018 that reasonably indicate the property owner has abandoned the property. According to the Lake County Tax Collector, their office has power to sell the property. **(Exhibit 11)**

Corrective Action:

The property owner failed to correct the issues cited in the NONOTA or failed to contact this Department to formulate a plan of progression in order to achieve compliance.

Abatement Action:

On November 8, 2019, a blind-copy email to an existing list of contractors soliciting quotes for the abatement of the property. Two (2) bids were received, (1) Leonard's Hauling for \$2,000; and (2) Coleman Environmental Engineering, Inc. for \$7,400. **(Exhibit 12)**

On November 26, 2019, a warrant was signed by a Lake County Superior Judge and executed in order to access the property. On November 27, 2019, a 24 Hour Notice was posted on the property pursuant to CCP 1822.56 **(Exhibit 13)**. The rubbish, trash, brush and shed were removed from the property, as well as any potential fire hazard and health and safety issues. **(Exhibit 14)**

Action taken by the Board will result in a Special Assessment lien recorded with priority over all private liens, regardless of the time of their creation, including the prior recorded mortgages against

the identified real property.

- 1 Pursuant to Chapter 13, Article IV, Section 13-43.3, The Notice of Lien, after recordation, shall be delivered to the County Auditor who shall enter the amount of the lien on the assessment roll as special assessments.
- 2 The NONOTA issued meets the criteria set forth in Chapter 13, Article I, Section 13-6.1.
- 3 Such notice shall be deemed properly served if a copy thereof is either; (2) Sent by certified or registered mail addressed to every responsible party at the last known address with return receipt requested, and posted at the site.
- 4 Property taxes for 2019 do not reflect as being outstanding or unpaid at this time, but most likely will be recorded as not being paid.
- 5 According to the Tax Collectors Office, a "Power to Sell" notice should have been recorded with the County Record in order to place the property on the list for a tax lien sale, but this has not occurred as of the date of this report.
- 6 California Revenue & Taxation Code §§ 2192.1, 3712; California Government Code § 53935

If not budgeted, fill in the blanks below only:

Estimated Cost: **\$2,116.14** Amount Budgeted: _____ Additional Requested: _____ Future Annual Cost: _____

Consistency with Vision 2028 and/or Fiscal Crisis Management Plan (check all that apply):

- | | | | |
|---|--|---|--|
| <input checked="" type="checkbox"/> Well-being of Residents | <input checked="" type="checkbox"/> Public Safety | <input type="checkbox"/> Infrastructure | <input type="checkbox"/> Not applicable |
| <input checked="" type="checkbox"/> Economic Development | <input type="checkbox"/> Disaster Recovery | <input type="checkbox"/> County Workforce | <input type="checkbox"/> Technology Upgrades |
| <input checked="" type="checkbox"/> Community Collaboration | <input type="checkbox"/> Business Process Efficiency | <input type="checkbox"/> Clear Lake | <input type="checkbox"/> Revenue Generation |
| | | | <input type="checkbox"/> Cost Savings |

If request for exemption from competitive bid in accordance with County Code Chapter 2 Sec. 2-38, fill in blanks below:

Which exemption is being requested?
How long has Agreement been in place?
When was purchase last rebid?
Reason for request to waive bid?

Recommended Action:

Staff recommends the Board of Supervisors confirm the assessment of **\$2,116.14** and direct staff to Record a notice of Special Assessment Lien against the property. The cost of abatement services was **\$2,000**. The administrative costs on this case amounted to **\$116.14**.