

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

June 11, 2024

FROM

MARK WARDLAW, Director, Land Use Services Department

SUBJECT

Imposition of Special Assessments on Properties Previously Abated for Containing Public Nuisances

RECOMMENDATION(S)

1. Adopt the report of delinquent abatement costs, related administrative fees, and unpaid citations issued for the properties due to the nuisance conditions included and summarized in Attachment A.
2. Order the abatement costs and related administrative fees, plus unpaid citations to be levied, as a special assessment against the properties should the owner fail to pay all costs prior to levy, and direct all money received to the Land Use Services Department, Code Enforcement Division, or the appropriate revolving fund.
3. Authorize the recordation of a notice of abatement lien against the properties, as permitted by Government Code section 25845(e).
4. Authorize the Director of Land Use Services Department to amend the report of delinquent fees to remove those accounts that are paid in full, or adjust the amounts owed due to the revision of the penalties and the fees and/or partial payment of the delinquent charges, prior to the report being submitted to the Auditor-Controller/Treasure/Tax Collector for placement on the 2024-2025 property tax roll and to the Assessor-Recorder-County Clerk for the recording of liens against the parcels.

(Presenter: Mark Wardlaw, Director, 387- 4431)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Promote the Countywide Vision.

Operate in a Fiscally- Responsible and Business-Like Manner.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Costs) as the abatement work and costs that the special assessments would recoup have already been expended from the Land Use Services Department – Code Enforcement Division allocated budget. In total, there are 55 delinquent invoices for abatement work performed by the County, for a total of \$1,745,132.49. Placement of these special assessments on the 2024-2025 tax rolls for the affected properties will result in additional recovery of County funds.

A detailed breakdown of expenses, accrual dates, payment deadlines, and other fees are included and summarized listed in the report of delinquent nuisance abatement fees (Attachment A).

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BACKGROUND INFORMATION

The County Code declares all violations of the County Code to be a public nuisance. Civil Code section 3491 and County Code section 11.0209 permit the County, upon proper noticing, to enter onto and abate all public nuisances from private property. Prior to abatement, a written order is issued pursuant to section 11.0205, which details the observed violation and warns that failure to correct it may result in the County taking action, including abating it itself at the violator's expense. A violator may appeal this written order, first to an administrative hearing officer and then to the Superior Court, but if they do not or fail to prevail then they are prohibited from challenging that a violation existed and that it may be abated. Should no appeal be submitted, or should all legal challenges fail, the Code Enforcement Division then obtains an abatement warrant prior to any abatement on private property.

When the Code Enforcement Division abates nuisances on private property following a written order, the County Code permits it to seek recovery of all costs and expenses pursuant to County Code section 11.0212. An invoice is then sent to the responsible party. Upon receipt of the invoice, the responsible party is provided an opportunity to appeal the amount of the costs and its reasonableness, otherwise payment is due within 60 days, or a lien is recorded against the property. If a responsible party fails to appeal, or appeals and loses, the amounts become final and due.

Should an abatement invoice remain unpaid past the timeframes listed in County Code section 11.0212, the Board of Supervisors (Board) has the power to order the cost of the abatement to be specially assessed against the parcel as authorized by County Code section 11.0212 and Government Code section 25845(d). In addition to the actual abatement fees and related administrative costs, County Code section 11.0213 permits the County to recoup, through special assessment, unpaid administrative citation penalties and late payment charges. Administrative citations and late charges are permitted to be specially assessed pursuant to County Code section 11.0208. The accumulated unpaid citation amounts, abatement costs, and late payment charges are identified in Attachment A in the column labeled "Invoice Total."

In January 2022, the County began abating verified public nuisance conditions relating to illegal commercial cannabis sites pursuant to County Code sections 11.0205, 11.0209 and 84.34.080. Abatement of these sites involves removal of unpermitted fencing, demolition of dilapidated structures and unpermitted hoop houses, towing of vehicles and campers, and removal of similar items used to facilitate unlawful cannabis cultivation as defined by County Code section 84.34.080. Abatement work was performed by Board approved contractors on a bid basis that is reviewed and approved by Land Use Services Department management.

Attachment A includes a table containing a list of properties where abatement work has been performed, the dates of relevant events, the total invoice amount to be specially assessed on the property, and the budget year the abatement occurred. For every property to be assessed, the responsible party has either failed to appeal or successfully challenge both the written order that identified the violations and the invoice containing the reasonable and actual expenses incurred. Having failed to appeal or successfully challenge both, the existence of the violations abated, and the reasonableness of the costs incurred are final. Attachment A also includes a "Cost Reference Key" tab explaining the different fees accrued in the abatement process and a "Workflow Key" tab that provides information on the steps involved in the abatement process. All invoices in Attachment A are past due and now may be specially assessed.

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PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Brett Davison, Deputy County Counsel, 387-5455) on May 6, 2024; Finance (Penelope Chang, Administrative Analyst III, 387-4886) on May 24, 2024; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on May 24, 2024.

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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Joe Baca, Jr. Seconded: Curt Hagman
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: June 11, 2024



cc: File - Land Use Services Department w/ attachment
JLL 06/26/2024