



Board Agenda Item 4

DATE: September 15, 2015

TO: Board of Supervisors

SUBMITTED BY: Margaret Mims, Sheriff-Coroner

SUBJECT: Appeal of Administrative Penalties for Violations of Fresno County Medical Marijuana Ordinance

RECOMMENDED ACTION(S):

Consider and take action on appeal of administrative citation in the amount of \$5,000, filed by Sone Sengsiri, pertaining to the property located at 3737 N. Del Rey, Sanger, California 93657, APN 309-170-07, for violation of Fresno County Ordinance Code section 10.60.060 of Title 10, Medical Marijuana Cultivation Regulations.

The \$5,000 citation was issued pursuant to Fresno County Ordinance Code section 10.64.040. The County's Ordinance Code includes a process for appealing such a citation. An appeal must be made within 15 days from the date the citation is issued. The appeal by Mr. Sengsiri was made within 15 days of when he was cited.

ALTERNATIVE ACTION(S):

An order denying the appeal is appropriate if your Board upholds the imposition of an administrative penalty in the amount of \$5,000 against Sone Sengsiri (the "Appellant"). Alternatively, your Board may deny the appeal, but reduce the administrative penalty. Finally, your Board may determine that the Appellant was not a responsible party, and grant the appeal by dismissing the citation.

FISCAL IMPACT:

There is no new net County cost associated with the recommended action. Staff costs associated with enforcement and administration of Fresno County Ordinance Code section 10.60.060 - Medical Marijuana Cultivation Regulations is being absorbed within the Sheriff's Org 3111 Adopted Budget.

DISCUSSION:

Summary of Facts:

Date of Citation: August 12, 2015

Number of Marijuana Plants: 5

Amount of Citation: \$5,000

Person Cited: Sone Sengsiri (tenant)

Location of Property: 3737 N. Del Rey, Sanger, California 93657
APN 309-170-07 (the "Property")

Disposition of Plants: Eradicated by staff on August 12, 2015

On August 12, 2015, staff from the Fresno County Sheriff's Office ("staff") investigated a possible marijuana grow located on the Property. Staff confirmed that five (5) marijuana plants were growing on the Property and eradicated them.

Staff made contact with Appellant. Staff explained to Appellant that staff was responding to his address regarding a possible marijuana cultivation site located on the Property. Staff asked Appellant if he had any marijuana growing on the Property and Appellant stated that he only had peppers growing on the Property. Staff asked Appellant if he would show staff the garden where the peppers were growing and Appellant said yes. As they were walking toward the rear of the Property staff again asked Appellant if he had marijuana growing on the Property and Appellant stated he had five (5) marijuana plants growing with the peppers.

Appellant led staff to a garden area where staff observed five marijuana plants approximately three feet tall growing amongst other vegetable crops. Staff photographed the marijuana plants. Staff asked Appellant if Appellant was aware of the county ordinance regarding the cultivation of marijuana and if he had been contacted previously by the Fresno County Sheriff's Office. Appellant stated that he was aware of the ordinance and retrieved an administrative citation he had been issued in 2014 for 126 marijuana plants.

Based on Appellant's knowledge of the ordinance, his prior violation of it, and the then existing violation of the ordinance, staff issued an administrative citation to Appellant for \$5,000.

Applicable Laws:

Fresno County Ordinance Code chapter 10.64 provides that administrative penalties can be imposed for each and every marijuana plant cultivated in violation of Chapter 10.60 in the amount of one thousand dollars (\$1,000) per plant.

Pursuant to Fresno County Ordinance Code chapter 10.64.070.B, your Board shall only consider evidence that is relevant to whether the violation(s) occurred, and whether the recipients of the citations are "responsible parties" as defined by Fresno County Ordinance Code chapter 10.64.030.D ["any other entity whatsoever whose action or actions caused or contributed to violations of codes].

The decision of your Board shall be final upon adoption of an order containing its determination. The administrative penalties, if any, are due and payable immediately upon the adoption of an order denying the appeal.

ATTACHMENTS INCLUDED AND/OR ON FILE:

Exhibit A - Map showing location of Property
Exhibit B - Copy of citation issued to Appellant
Exhibit C - Copy of the Request for Hearing filed by Appellant
Exhibit D - Copy of Incident Report prepared by the Fresno County Sheriff's Office
Exhibit E - Copy of Notice of Hearing sent to Appellant by the Clerk to the Board of Supervisors
Exhibit F - Photos of Property taken by Fresno County Sheriff's Office staff

CAO ANALYST:

Jeannie Z. Figueroa