



Board Agenda Item 12

DATE: November 17, 2015

TO: Board of Supervisors

FROM: Margaret Mims, Sheriff-Coroner

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

RECOMMENDED ACTION:

Consider and take action on appeals of administrative citations in the amount of \$698,000, filed by Jeff Hoffman and Anne Louise Hayes, pertaining to the property located at 6138 N. Van Ness, Fresno, CA, 93711 APN 406-091-18, for violation of Fresno County Ordinance Code section 10.60.060 of Title 10, Medical Marijuana Cultivation Regulations.

The \$698,000 citations were 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 requests for appeal by Jeff Hoffman and Anne Louise Hayes were made within 15 days of when the citations were issued.

ALTERNATIVE ACTION(s):

An order denying the appeals is appropriate if your Board upholds the imposition of an administrative penalty in the amount of \$698,000 against Jeff Hoffman and Anne Louise Hayes (hereafter, the "Appellants"). Alternatively, your Board may deny the appeals, but reduce the administrative penalty. Finally, your Board may determine that the Appellants were not responsible parties, and grant the appeals by dismissing the citations.

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 each Citation: October 3, 2015

Number of Marijuana Plants: 698

Amount of Citation: \$698,000.00

Person(s) Cited: Anne Louise Hayes (Girlfriend to Owner)
Jeff Hoffman (Owner)

Person Not Cited: Laroy John Segura

Location of Property: 6138 N. Van Ness Blvd, Fresno, California 93711
APN 406-091-18 (the "Property")

Disposition of Plants: Eradicated by staff on October 3, 2015

Investigation Which Led To Issuance of Administrative Citations

On October 3, 2015 Fresno County Sheriff's Office Marijuana Detectives were dispatched to assist the Fresno Fire Department for reported fire and smoke in the area of Barstow and Van Ness. The fire was determined to be coming from 6138 N. Van Ness, Fresno, Ca. Upon arrival the fire department was repeatedly denied access by a male later identified as Laroy John Segura. Segura stated he was hired by the owner to do some construction work at the home. Segura was in contact with the owner of the residence via cell phone. This cell phone number was confirmed by Anne Louise Hayes to be that of Jeff Hoffman. At one point a member of the fire department was on the phone with Hoffman, the property owner. Hoffman told the fire department that the fire was out and that they did not have his permission to enter his property. The fire department was finally allowed access, by Segura, when they told Hoffman and Segura again that the fire must be investigated and that the Sheriff's Office had been contacted. Mr. Segura opened the gate and promptly left the site in a truck. Prior to entering the residence the fire department contacted the Sheriff's Office due to concerns for the Fresno Fire Department staff safety.

Sheriff's Office staff arrived and was directed to a burned structure, detached garage, in the backyard that contained a marijuana grow. Sheriff detectives then made contact with Anne Louise Hayes in the backyard of the residence. Anne stated she lived at the residence with Jeffrey Hoffman, the property owner, who was in Santa Cruz on a personal matter. Anne stated she was in the backyard when she saw smoke coming from the detached garage and discovered a fire. She contacted her friend Laroy John Segura to help put out the fire with a hose. Appellant went on to admit that she and Jeffrey Hoffman were growing and caring for marijuana plants in the detached garage. Anne stated she kept written logs on how she cares for the plants; the logs were found inside the marijuana grow. Detectives tried several times to contact Hoffman via his cell phone, but found the phone had been shut off after contact with the fire department had been made.

PG&E was called out to the residence to confirm power was not being bypassed to run the marijuana grow. PG&E confirmed no power was being bypassed; however, the wiring to power the marijuana grow was not passed by an inspector and was more than likely not up to code. PG&E stated that due to the danger of the wiring, which caused the fire, they were shutting off all power to the residence until it was inspected and passed by an inspector. All residents would have to find other accommodations until the danger was corrected.

While checking the damage the fire caused to the detached garage and grow, the following was observed by detectives:

1. Medical marijuana recommendations for Appellant Anne Louise Hayes.
2. Evidence that the detached garage was set up for growing and processing marijuana.
3. 698 live marijuana plants in various stages of growth, growing in several rooms within the detached garage.
4. Logs kept by Appellant Anne Louise Hayes with fertilizing and watering schedules.
5. Excessive supply of empty pots and chemicals.
6. Evidence the fire started in the south grow room of the detached garage.

Based on the foregoing statements, evidence and staff's training and experience, detectives determined that the Appellants were responsible for and had knowledge of the cultivation of marijuana on the Property. Detectives advised Appellant Anne Louise Hayes that the cultivation of marijuana violated the Fresno County Ordinance Code, and issued an administrative citation in the amount of \$698,000 to her and left the other for Mr. Hoffman.

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 - Copies of citations issued to Appellants
Exhibits C and D - Copies of Requests for Hearings filed by Appellants
Exhibits E and F - Copies of Incident Reports prepared by the Fresno County Sheriff's Office
Exhibit G - Copies of Notices of Hearings sent to Appellants by the Clerk to the Board of Supervisors
Exhibit H - Photos of property taken by Fresno County Sheriff's Office staff

CAO ANALYST

Jeannie Z. Figueroa