

**COUNTY OF SAN MATEO  
PLANNING AND BUILDING DEPARTMENT**

**DATE:** November 5, 2015

**TO:** Zoning Hearing Officer

**FROM:** Planning Staff

**SUBJECT:** Consideration of an appeal of Administrative Fines, issued pursuant to Ordinance Code Chapter 1.40 for the keeping and/or maintaining of an accessory use that is not appurtenant to a residential use on the same parcel in the R-1/S-73 Zoning District in violation of Zoning Regulations Section 6161(e).

County File Number: VIO 2015-00329

**APPEAL/APPELLANT**

The property owner submitted an appeal on September 22, 2015.

The appeal request states:

“I, Curtis Russell, am filing an appeal against my Citation Case No. VIO 2015-00329 that I received. To my understanding, Zoning Regulations Section 6161 is invalid as it does not state that the County has authority on what I can and cannot keep on my property. I feel that the County employees have only cited me with Section 6161 because their first attempt at citing me with Zoning Regulations Section 6102.46 was invalid as well. Per Section 6161, I would understand the enforcement if it stated that the County has discretion on what you can and cannot have on your property. Furthermore, if there was a ban on oversized vehicles, like there is in other cities in San Mateo County, I could understand the argument. In regard to the citation I received via mail last week, the box marked “Date” was left blank. I would assume your offices have record of when it was mailed. The check along with a printed copy of this appeal will be delivered tomorrow morning.”

**PROPERTY INFORMATION**

- A. Owners: Curtis and Robert Russell
- B. Address: 562 Stanford Avenue, Redwood City (North Fair Oaks)
- C. APN: 054-245-120

- D. Size: 5,000 sq. ft.
- E. Zoning: R-1/S-73 (Single-Family Residential, 5,000 sq. ft. minimum parcel size)
- F. General Plan Land Use Designation: Urban/Single-Family Residential
- G. Sphere-of-Influence: Redwood City (North Fair Oaks Unincorporated)
- H. Water Supply/Sewage Disposal: Cal Water/Fair Oaks Sewer
- I. Flood Zone: Zone X, Area of Minimal Flooding

**KEY ISSUES**

Section 6161, USES PERMITTED, (e) states: “Accessory buildings and accessory uses appurtenant to a residential use, provided, however, that such accessory buildings shall not be constructed until the main building shall have been constructed.”

Contrary to what the appellant has asserted, Section 6161 in fact does govern what land uses are allowed in the “R-1” (One-Family Residential District). The section contains a list of 21 land uses that are expressly allowed in the district. Land uses that are not listed in Section 6161 are not allowed (unless expressly allowed by another section of the Zoning Regulations – e.g., Chapter 24, USE PERMITS).

Section 6161(e), specifically allows “accessory uses appurtenant to a residential use.” This would include the storage of items that are related to or belonging to a residential use, such as a car or light truck, garden tools and supplies, and household items that are typically used and stored on the same site as a single-family residence. Heavy construction equipment, such as a backhoe, is not incidental or related to a single-family home, and it is not typical to see one stored as an accessory to a residential use. As such, staff’s determination is that the storage of a backhoe on the site at 562 Stanford Avenue is a violation of Zoning Regulations Section 6161(e).

**ENFORCEMENT TIMELINE**

- August 3, 2015 - Notice of Code Violation (citing Section 6102.46).
- August 26, 2015 - Notice of Code Violation (citing Section 6161(e)).
- September 15, 2015 - Administrative Citation for \$100.00.
- September 22, 2015 - Appeal of Administrative Citation filed.

## **FILE HISTORY**

- A. August 3, 2015: Complaint received; Code Compliance Officer (CCO) Mike Crivello conducts initial inspection and issues Notice of Violation with a correction date of August 19, 2015. Initial Notice of Violation cites Zoning Code Section 6102.46, which is the definition of “Home Occupations.” At that time, the CCO believed that the backhoe was being stored on the property as part of a business being run out of the home, which is a violation of the Home Occupation regulations. Property owner explains that backhoe was brought on site to remove the driveway, but broke down. Owner is waiting for parts to repair it, as it is too big to move otherwise.
- B. August 17 - 26, 2015: Phone calls between applicant and CCO. It is confirmed that the backhoe has been repaired, but it is still on the property; it has been moved to the back of the lot, out of sight from the street. Staff determines that this is a violation of Section 6161(e), Uses Permitted in R-1 Districts, and a second Notice of Violation is issued on August 26, 2015, with a correction date of September 9, 2015.
- D. September 10, 2015: CCO Hector Carlos conducts an inspection and observes the backhoe still stored on-site with a cover over it at the back behind a fence.
- E. August 26 - September 15, 2015: Property owner exchanges e-mails with County staff. One of the issues discussed is whether the backhoe can be characterized as a vehicle, and allowed to be stored on-site pursuant to California Vehicle Code Article 8.3, Section 5051(B) related to historical special interest vehicles. Staff’s position is that the backhoe is not a vehicle according to the California Vehicle Code, since it is not designed to be driven on a highway or carry persons.
- F. September 15, 2015: Administrative Citation issued citing non-compliance with Zoning Regulations Section 6161(e).
- H. September 22, 2015: Property owner appeals the Administrative Citation.

## **APPEAL PROCEDURES**

Section 1.40.090 allows any recipient of an administrative citation to request an appeal hearing to contest that there was a violation or that he or she is the responsible party by completing a Request for Hearing Form and returning it to the County within 14 days from the date of the administrative citation, along with the processing fee as listed in the County’s fee schedule. The Request for Hearing Form shall include a brief statement of material facts supporting the appellant’s claim that no violation occurred or no penalties or other remedies shall be imposed. In accordance with these procedures, the property owners filed a timely and complete appeal.

Section 1.40.120 regulates the Hearing Officer's decision and administrative order. The Hearing Officer shall only consider evidence that is relevant to whether the violation occurred and whether the responsible person has caused or maintained the violation on the date specified in the administrative citation. After considering all of the testimony and evidence submitted at the hearing, the Hearing Officer shall issue a written decision to uphold or cancel all or part of the administrative citation and shall list the reasons for that decision.

### **STAFF RECOMMENDATION**

Staff recommends that the Hearing Officer uphold all of the administrative citation because the persons responsible maintained the violations and the violations existed on the dates September 15, 2015, the date the administrative citation was issued. The decision issued by the Hearing Officer should include an administrative order to remove the use (heavy equipment storage) that is the subject of these violations by a set date.

Confirmed Violation: The violations were confirmed existing on site visits performed by Code Compliance Section staff in August 2015 and September 2015.

Due Process: The Planning and Building Department has followed the codified procedures to ensure due process for the recipients of the Notice of Violation and administrative citation.

Integrity of Permit Requirements: Without use of administrative fines when necessary to enforce permitting and zoning requirements, there is less incentive for compliance, and those property owners who abide by the requirements are done a disservice.

Case Resolution: In order to close the active violation case, the property owners must bring the properties into a state of compliance and notify the Code Compliance Section so verification can occur. If the Hearing Officer orders abatement by a set date and abatement occurs on or before that set date, no additional fines will be pursued, provided any outstanding fines are paid.

### **ATTACHMENTS**

- A. Notice of Code Violation (2)
- B. Administrative Citation
- C. Appeal Request Document
- D. Site Visit Photos

LAA:pac – LAAZ0769\_WPN.DOCX



**County of San Mateo - Planning and Building Department**

# **ATTACHMENT A**



**NOTICE OF VIOLATION**

VIO: 2015-00329

COUNTY OF SAN MATEO  
PLANNING AND BUILDING DEPARTMENT  
CODE ENFORCEMENT DIVISION, 455 COUNTY CENTER  
REDWOOD CITY, CA 94063 (650)363-4825

DATE 08/03/15

TIME 0800

An inspection of the premises located at 562 Stanford Ave <sup>RWC</sup> in the County of San Mateo revealed the following San Mateo Code violation(s)

Name of Property Owner: Curtis and Robert Russell

Address if Different Than Violation(s): 562 Stanford Ave  
Redwood City, CA 94063

**THE VIOLATION(S) MUST BE CORRECTED BY** 08/19/15

**A REINSPECTION WILL BE MADE ON OR AFTER THE CORRECTION DATE TO VERIFY COMPLIANCE. SEE REVERSE SIDE FOR FAILURE TO COMPLY NOTICE**

SECTION(S) VIOLATED Please note items checked below for compliance requirements.

- 1.12.010(5) Inoperative, wrecked, or dismantled vehicle(s), trailer(s), or boat(s):** You must remove all inoperative vehicles from the property. Do not relocate onto public street.
- 1.12.010(4) Accumulation of debris, garbage, refuse, litter, junk, lumber, boxes broken or discarded furniture and/or household items etc.:** You must clear property of any and all accumulation of any of the above mentioned items, and/or \_\_\_\_\_.
- 1.12.010(4) Overgrown and/or dead weeds and/or other vegetation:** You must clear property of all overgrown and/or dead vegetation.
- 6412(a)(b) Fences, walls, and hedges shall not exceed four (4) ft. in height in front yard and six (6) ft. in height in rear yard areas:** You must reduce fence, wall, and/or hedge to not exceed the required height limitations.
- 8602.0 Excavating, grading, filling, and/or land clearing without an approved grading permit is prohibited:** Immediately cease all work, apply for and obtain a grading permit with the Planning Department.
- 12,020. Permit Required to cut, remove, destroy any significant tree, whether indigenous or exotic, on any private property:** You must apply for and obtain an after the fact tree-cutting permit with the Planning Department.
- Contact the San Mateo County <sup>Code Enforcement</sup> Planning Dept. at the above address or ~~(650) 363-1825~~**
- Other 6102.46 Home Occupation CAN'T STORE EQUIPMENT**
- Other (Brotiche) NOT normally Found in Residential Property**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on the date shown above.

**MICHAEL CRIVELLO**

SIGNATURE / PRINT NAME OF ISSUING OFFICER 363-7821



## **IMPORTANT - PLEASE READ**

If the violation(s) is not corrected by the date specified on the front side of this Notice of Violation, an ADMINISTRATIVE CITATION may be issued and penalties imposed starting at \$100.00 for the first citation, \$200.00 for the second citation, and \$500.00 for the third and subsequent citations for the violations of the same County of San Mateo Ordinance Code section in 12 months. These citations may be issued each day the violation(s) exist. Additional enforcement actions such as administrative abatement, civil penalties, revocation of permits, recordation of notice of violation, withholding of future permits, criminal prosecution and/or civil injunction may be utilized to correct this violation(s).

### **Consequences of Failure to Correct Violations:**

There are numerous enforcement options that can be used to encourage the correction of the violation(s). These options include, but are not limited to: civil penalties, criminal prosecution, civil injunction, withholding of future permits, abatement, property lien, and recordation of the violation(s) the County Recorder. These options can empower the County to collect fines of up to \$100,000, to demolish structures or make necessary repairs, and abate nuisance at the owner's expense. Any of these options or others may be used if the administrative citations do not achieve compliance.

**AVISO IMPORTANTE, si desea una traducción, favor de llamar al número  
(650) 363-4825 dentro de las horas de 7:00 a.m. y 4:00 p.m.**



**NOTICE OF VIOLATION**

VIO: 2015-00329

COUNTY OF SAN MATEO  
PLANNING AND BUILDING DEPARTMENT  
CODE ENFORCEMENT DIVISION, 455 COUNTY CENTER  
REDWOOD CITY, CA 94063 (650)363-4825

DATE 08/03/15

TIME 0800

An inspection of the premises located at 562 Stanford Ave in the County of San Mateo revealed the following San Mateo Code violation(s)

Name of Property Owner:	<u>Curtis and Penelope Russell</u>
Address if Different Than Violation(s):	<u>562 Stanford Ave Redwood City, CA 94063</u>

**THE VIOLATION(S) MUST BE CORRECTED BY** 08/19/15

**A REINSPECTION WILL BE MADE ON OR AFTER THE CORRECTION DATE TO VERIFY COMPLIANCE. SEE REVERSE SIDE FOR FAILURE TO COMPLY NOTICE**

SECTION(S) VIOLATED Please note items checked below for compliance requirements.

- 1.12.010(5) Inoperative, wrecked, or dismantled vehicle(s), trailer(s), or boat(s):** You must remove all inoperative vehicles from the property. Do not relocate onto public street.
- 1.12.010(4) Accumulation of debris, garbage, refuse, litter, junk, lumber, boxes broken or discarded furniture and/or household items etc.:** You must clear property of any and all accumulation of any of the above mentioned items, and/or \_\_\_\_\_.
- 1.12.010(4) Overgrown and/or dead weeds and/or other vegetation:** You must clear property of all overgrown and/or dead vegetation.
- 6412(a)(b) Fences, walls, and hedges shall not exceed four (4) ft. in height in front yard and six (6) ft. in height in rear yard areas:** You must reduce fence, wall, and/or hedge to not exceed the required height limitations.
- 8602.0 Excavating, grading, filling, and/or land clearing without an approved grading permit is prohibited:** Immediately cease all work, apply for and obtain a grading permit with the Planning Department.
- 12.020. Permit Required to cut, remove, destroy any significant tree, whether indigenous or exotic, on any private property:** You must apply for and obtain an after the fact tree-cutting permit with the Planning Department.
- Contact the San Mateo County-Planning Dept. at the above address or (650)-363-1825** *Code Enforcement*
- Other** 6102.46 Home Occupations Permit State Equipment
- Other** (backline) not within 14' Foundation Residential Property

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on the date shown above.

*[Handwritten Signature]*

**MICHAEL CRIVELLO**

SIGNATURE / PRINT NAME OF ISSUING OFFICER 363-7821

White (office)

Yellow (violator)

Pink (file)



## **IMPORTANT - PLEASE READ**

If the violation(s) is not corrected by the date specified on the front side of this Notice of Violation, an ADMINISTRATIVE CITATION may be issued and penalties imposed starting at \$100.00 for the first citation, \$200.00 for the second citation, and \$500.00 for the third and subsequent citations for the violations of the same County of San Mateo Ordinance Code section in 12 months. These citations may be issued each day the violation(s) exist. Additional enforcement actions such as administrative abatement, civil penalties, revocation of permits, recordation of notice of violation, withholding of future permits, criminal prosecution and/or civil injunction may be utilized to correct this violation(s).

### **Consequences of Failure to Correct Violations:**

There are numerous enforcement options that can be used to encourage the correction of the violation(s). These options include, but are not limited to: civil penalties, criminal prosecution, civil injunction, withholding of future permits, abatement, property lien, and recordation of the violation(s) the County Recorder. These options can empower the County to collect fines of up to \$100,000, to demolish structures or make necessary repairs, and abate nuisance at the owner's expense. Any of these options or others may be used if the administrative citations do not achieve compliance.

**AVISO IMPORTANTE, si desea una traducción, favor de llamar al número  
(650) 363-4825 dentro de las horas de 7:00 a.m. y 4:00 p.m.**



**County of San Mateo - Planning and Building Department**

# **ATTACHMENT B**



# SAN MATEO COUNTY ADMINISTRATIVE CITATION

Date	Location of Violation <i>502 Santa Fe Ave</i>	APN# <i>245</i> <i>054 25 120</i>
Name of Property Owner <i>Curtis Robert Russell</i>		CASE# <i>V2015-00329</i>
Mailing Address (If Different Than Violation)		
City <i>Redwood City CA</i>	State <i>CA</i>	Zip <i>94063</i>
Violations within a 12 month period: <input checked="" type="checkbox"/> 1 <sup>ST</sup> CITATION \$100.00 <input type="checkbox"/> 2 <sup>ND</sup> CITATION \$200.00 <input type="checkbox"/> 3 <sup>RD</sup> CITATION \$500.00 & any subsequent violations.		<b>FINE Due By:</b> <u><i>09/29/15</i></u>  Refer To The Back Of This Citation For Information On Paying The Amount Indicated.  <b>CONTACT THIS OFFICE @ (650) 363-4825</b>
<b>REQUIRED CORRECTIONS MUST BE MADE BY:</b> <u><i>09/29/15</i></u>		
<b>Description of Violations</b>		<b>Required Corrections</b>
<input type="checkbox"/> <b>1.12.010(5):</b> Inoperative, wrecked, or dismantled vehicles, trailers or boats.	Remove any & all inoperative, wrecked, or dismantled vehicles from property. Do not relocate onto street.	
<input type="checkbox"/> <b>1.12.010(4):</b> Accumulation of debris, garbage, refuse, litter, junk, lumber broken/discarded household items etc.	Clear property of any and all debris, garbage, refuse, litter, junk, lumber, broken/discarded household items and/or	
<input type="checkbox"/> <b>1.12.010(4):</b> Overgrown or dead weeds and/or other vegetation.	Clear property of all overgrown and/or dead weeds and/or other vegetation.	
<input type="checkbox"/> <b>1.12.010:</b> Any attractive nuisance, dangerous to children, injurious to health, including abandoned equipment, excavations etc.	Abate the following nuisance: _____ _____	
<input type="checkbox"/> <b>6412:</b> Fences, walls, and hedges, shall not exceed: (4) ft ht. in front yard and (6) ft. ht. in rear yard areas.	Reduce fence, wall and/or hedge to appropriate height.	
<input type="checkbox"/> <b>12,020:</b> Permit required to cut, remove, destroy any significant tree, whether indigenous or exotic, on private property	Apply for and obtain an after-the-fact tree-cutting permit with the County of San Mateo Planning Department. (650) 363-1825	
<input type="checkbox"/> <b>8602.0:</b> Excavating, grading, filling and/or land clearing without an approved grading permit is prohibited.	<b>You must cease all work</b> and immediately apply for and obtain a grading permit with the County of San Mateo Planning Department. (650) 363-1825	
<input checked="" type="checkbox"/> <i>Section 6161 Uses Permitted in Residential District (CR) Review with the Planning Department</i>		
Signature of Issuing Officer <i>[Signature]</i>	Printed Name of Issuing Officer <b>MICHAEL CRIVELLO</b>	

X

White (property owner)

Yellow (office)

Pink (file)



**IMPORTANTE - READ CAREFULLY THE LAW REQUIREMENTS**

**Administrative Citation:** The San Mateo County Ordinance Code Section 1.40.010 provides for the issuance of administrative citations for Code Violations. There are three levels of citations that can be issued progressively for a violation. The fines, as indicated on the front of the citations, are \$100.00 for the first citation, \$200.00 for the second citation, and \$500.00 for the third and subsequent citations for violations of the same San Mateo County Code section within 12 months. These citations may be issued each day the violation(s) exists. A warning, if issued, does not incur a fine, and therefore, may not be appealed.

**How to Pay Fine:** The amount of the fine is indicated on the front of the administrative citation. You may pay by mail or in person at 455 County Center, 2<sup>nd</sup> floor, Planning and Building Department, Redwood City, CA 94063. Payments can be made by Visa, Master Card, personal check, cashiers' check, or money order, payable to San Mateo County. Please write the citation number on your check or money order.

If the citation is not paid or appealed within thirty (14) days from the date of issuance or mailing of the citation, whichever is later, a late payment charge may be imposed (The schedule of penalties shall specify the amount). Please follow the instructions to ensure proper processing of your payment. Payment of the fine shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the County of San Mateo.

**Consequences of Failure to Pay Fine:** The failure of any person to pay the fine assessed by the administrative citation within the time specified on the citation may result in any legal remedy available to collect such fee. The County has the authority to collect all costs associated with the filing of such actions. Failure to pay fine requirements may be found in the San Mateo County Ordinance Code Section 1.40.150.

**Consequences of Failure to Correct Violations:** There are numerous enforcement options that can be used to encourage the correction of the violation(s). These options include, but are not limited to: civil penalties, criminal prosecution, civil injunction, withholding of future permits, abatement, lien and recordation of the violations with the County Recorder. These options can empower the County to collect fines to demolish structures, make necessary repairs, and abate nuisance at the owner's expense. Any of these or other options may be used if the administrative citations do not achieve compliance.

If you need further clarification about payment of the citation, please call the San Mateo County Code Compliance Section at (650) 363-4825.

If you need further information about the violation(s) and/or how to comply, please contact the officer designated on the front of the citation.

**Rights to Appeal:** You have the right to file an appeal of the administrative citation. You may do so by completing a Request for Hearing form and returning it to the County, together with a processing fee and an advance deposit of the penalty within fourteen (14) days from the citation date. The Request for Hearing Form shall include a brief statement of material facts supporting your claim that no violation occurred or no penalties shall be imposed.

Failure of any person to properly file a written appeal within the specified time shall constitute a waiver of his or her right to an administrative hearing and adjudication of the administrative citation.

A full description of the hearing process for the County's administrative hearing for Ordinance Code violations and your rights in that process are found in the San Mateo County Ordinance Code Sections 1.40.100, 1.40.110, and 1.40.120.

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(650) 363-4825 dentro de las horas de 7:00 a.m. y 4:00 p.m.**





**County of San Mateo - Planning and Building Department**

# **ATTACHMENT C**

**From:** Curtis Russell <curtisrussell246@gmail.com>  
**To:** Steve Monowitz <smonowitz@smcgov.org>, Warren Slocum <wslocum@smcgov.org...>  
**Date:** 9/22/2015 10:35 PM  
**Subject:** 562 Stanford Avenue Citation Appeal

9/22/2015

To whom it may concern,

I, Curtis Russell, am filing an appeal against my Citation Case # V2015-0039 that I received. To my understanding, zoning regulation section 6161 is invalid as it does not state that the county has authority on what I can and cannot keep on my property. I feel that the county employees have only cited me with section 6161 because their first attempt at citing me with zoning regulation section 6102.46 was invalid as well. Per section 6161, I would understand the enforcement if it stated that the county has discretion on what you can and cannot have on your property. Further more, if there was a ban on oversized vehicles like there is in other cities in San Mateo county, I could understand the argument. In regards to the citation I received via mail last week, the box marked "Date" was left blank. I would assume your offices have record of when it was mailed. The check along with a printed copy of this appeal will be delivered tomorrow morning.

Regards,  
Curtis Russell  
562 Stanford ave NFO  
650-222-0687



**County of San Mateo - Planning and Building Department**

# **ATTACHMENT D**

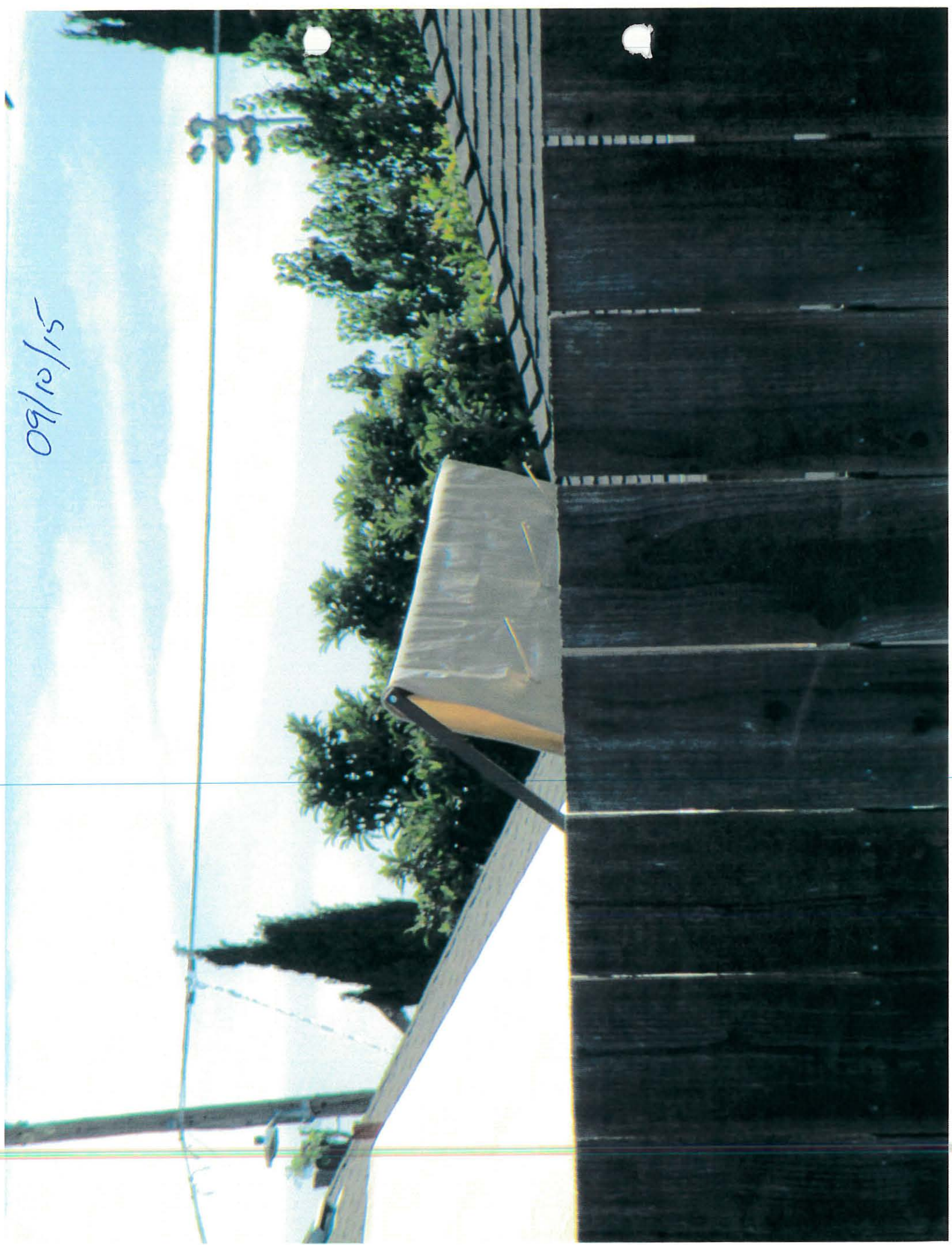


5/10/15





09/10/15





09/10/15





