



*City of
Novato
Housing,
Zoning, and
Building
Codes
Appeal Board*

March 27, 2018

AGENDA

- 1. 2001 Novato Blvd. Unit 2025 ‘Marin Fitness’**
- ~~2. 801 Wilson Ave.~~**
- ~~3. 813 Sutro Ave.~~**
- 4. 704 McClay Rd.**
- ~~5. 705 Orange Ave.~~**
- ~~6. 834 Hayden Ave.~~**
- ~~7. 823 Reichert Ave.~~**
- 8. Administration Citation and Penalty Discussion
Municipal Code 1-7**

NOVATO MUNICIPAL CODE

1-6 Public Nuisance Abatement

1-6.2 *Public Nuisances.* Any condition caused or permitted to exist in violation of the provisions of the Novato Municipal Code, resolution of the city council, or statute of the State of California, shall be deemed a public nuisance. A public nuisance further includes any unlawful obstruction or encroachment upon any public property, including but not limited to any public street, highway, right-of-way, park, building or any other condition that is injurious of the health, safety or general welfare of the community. Every day a public nuisance continues to exist shall be regarded as a new and separate offense.

NOVATO MUNICIPAL CODE

4-1 Building and Housing

4-1.2 Codes Adopted by Reference. The following codes or portions thereof hereafter set forth or hereinafter set out by amendment or revisions are hereby adopted and are made a part of this section by reference, without further publication or posting thereof.

(Include California Building Codes and the International Property Maintenance Code)

CALIFORNIA BUILDING CODE

2016 California Building/Residential Code 105.1:

“Any owner or owner’s authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the building official and obtain the required permit.”

CALIFORNIA BUILDING CODE

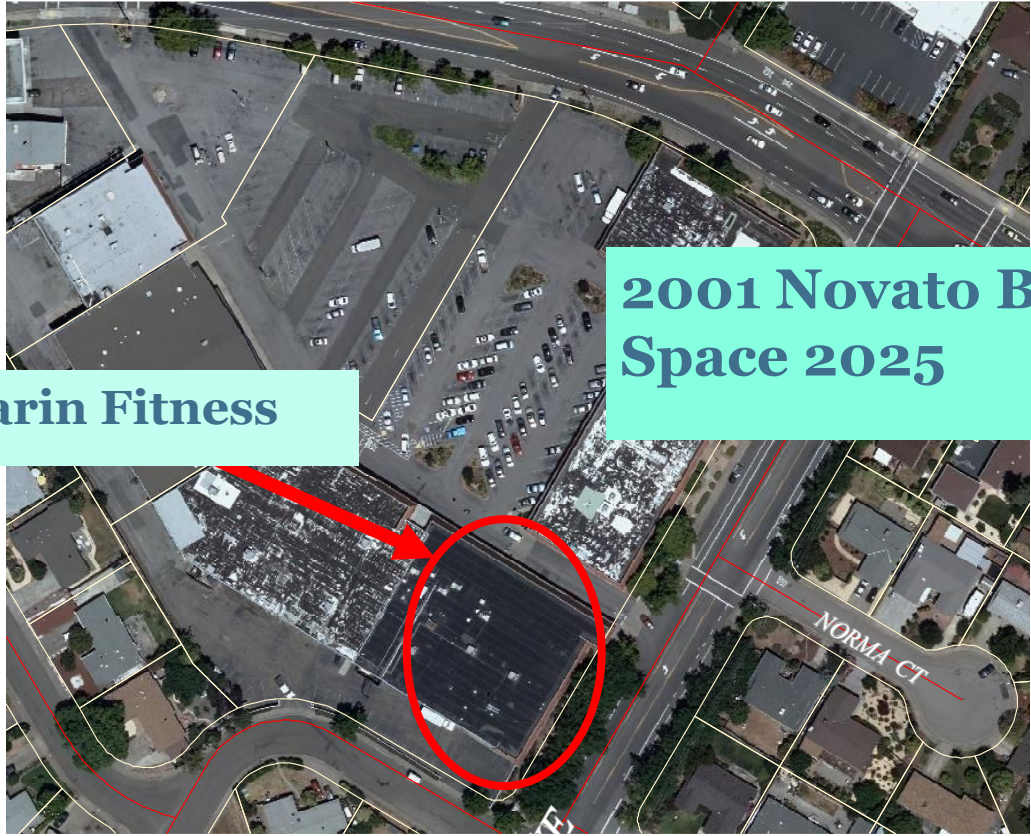
2016 California Building/Residential Code

105.5:

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time of work has commenced.
(If an inspection is not performed within 180 days of issuance, the permit is considered abandoned.)

RIGHT OF APPEAL

Any person having any record or legal Interest in the property may appeal the finding(s) of the Appeals Board to the Novato City Council, provided the appeal is made in writing, together with the established fee and filed with the City Clerk within **ten (10) days** from the date of this hearing.



Marin Fitness

**2001 Novato Blvd.
Space 2025**

Violations of 2015 International Property Maintenance Code

108.1.1 *Unsafe Structures*, ‘An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants.....’

304.1.1 *Unsafe Conditions*. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of deterioration, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load defects. *Non-maintenance of roof. Permit required for replacement/repair*

605.1 *Electrical Equipment Installation*. All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner. *Exposed wires in junction box in rear hall by exterior door. Wires must be capped and cover placed on junction box.*

On March 16, 2016 two separate complaints were received of a roof leak at/in the space, soaking the drop down ceiling tiles and onto the floor creating a slip hazard in one of the exercise rooms. An inspection was performed the same day. The owner of the business was not at the business but an employee did allow us to inspect. At that time staff did note several ceiling tiles were very wet, some with mold. An exercise room did have buckets on the floor to catch the leaking water.

On March 21, 2016 a second inspection was performed with the business owner. Staff discussed the issue with the business owner, discovering several more ceiling tiles soaked with water and/or mold. Mold was also noted in a back hallway to an exit door, which was missing a knob/handle.

On March 22, 2016, a Notice of Violation was mailed to the property asking for a permit to be obtained for roof repair and for Mold Remediation to be performed.





On March 31, 2016, City staff notified Novato Fire District (NFD) of the issues in addition to the discovery of the fire sprinkler heads being painted over. On April 5, 2016, NFD performed an inspection, verified the violation, asked the employee to pass on the violation to the owner of the business.

On November 28, 2016, after several communications with the property manager and business owner, a Notice and Order was mailed to the property owner, asking for a permit to repair the roof and Mold Remediation.

On January 18, 2017, a second Notice and Order was mailed to the property owner. As the owner had not complied with City requirements, fines were assessed

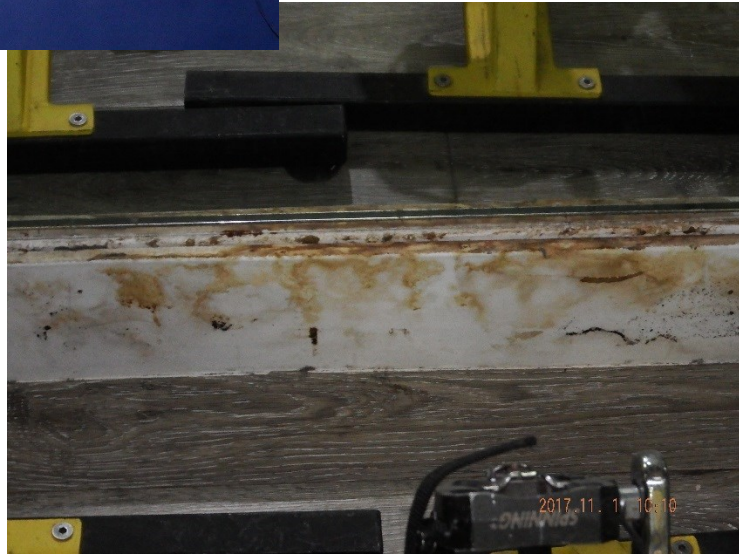
On January 31, 2017, staff performed another inspection. Per two employees, the roof had not been leaking for some time. Employees were asked to install caution tape in this area to prevent slips.

On February 7, 2017, an inspection was performed by City staff. At that time a water line along the wall of an exercise room had developed a leak, running down the wall and creating a slip hazard. Additional violations were discovered during this inspection.

On February 9, 2017, a third Notice and Order was mailed to the property owner and to the business owner. As the owner had not complied with City requirements, fines were assessed.

On March 1, 2017, City staff and NFD staff met with the property manager to discuss the sprinkler heads and repairs due to the water leak. A two week time frame was granted to make the necessary repairs.





Several correspondence occurred with City staff and the property manager to try and resolve all the noted violations. Most notably, the fire sprinkler heads and mold reports/remediation.

On April 18, 2017, a third complaint was received regarding possible mold issues and standing water from the pipe leak.

On April 20, 2017, City staff performed an inspection. Water leak had been repaired but fungus is seen growing on the baseboard of the exercise room and a moisture meter registered high concentration of moisture on the wall directly behind the room of the leak.

On May 1, 2017, City staff received another complaint regarding a leaking fire sprinkler head. The same day, City staff performed another inspection. The fire sprinkler head had been repaired, but, as the violations had yet to be corrected and no mold remediation performed, another Notice and Order was mailed with more fines levied.

On June 26, 2017, City staff performed another inspection. As the violations had yet to be corrected and no mold remediation performed, another Notice and Order was mailed with more fines levied.

On July 20, 2017, City staff performed another inspection. As the violations had yet to be corrected and no mold remediation performed, another Notice and Order was mailed with more fines levied.

On August 10, 2017, permit B2017-1888 was obtained by the property owner to make the necessary repairs to the roof. This permit has since expired due to no final inspection. On

September 26, 2017, another Notice and Order was mailed with more fines levied as the violations were not abated.

On September 26, 2017, another Notice and Order was mailed with more fines levied as the violations were not abated.

On September 29, 2017, City staff performed a joint inspection with NFD. Many of the violations remained unabated and several more building and property maintenance code violations were discovered.

As the violations had yet to be corrected, most notably the fire sprinkler heads repaired/replaced, and no mold remediation performed, the business owner was given the opportunity to either hire a 'Fire Watch', or the business would be ordered closed by the NFD until the sprinkler heads were repaired/replaced. The business owner made the decision to close the business. another Notice and Order was mailed with more fines levied.





2017.10



2018.3.21 7:39



2018.3.21 7:39

On October 4, 2017, an inspection was performed by City staff to verify repairs to the fire sprinkler heads. The work had not been completed.

On October 5, 2017, an inspection was performed by City staff and NFD to verify repairs to the fire sprinkler heads. Fire sprinkler heads had been repaired/replaced and the business was allowed to reopen. All other items were to be repaired within the month.

On November 1, 2017, City staff performed a joint inspection with NFD. As most of the items were still outstanding, another Notice and Order was mailed with fines levied.

On January 17, 2018, an Administrative Citation was issued with fines levied as the violations had yet to be abated.

On February 20, 2018, an Administrative Citation was issued with fines levied as the violations had yet to be abated.

On January 17, 2018, an Administrative Citation was issued with fines levied as the violations had yet to be abated.

On March 15, 2018, a Notice of Hearing was mailed to the property owner, manager and business owner and posted at the property.

On March 21, 2018, City staff performed an inspection noting only a couple of items had been repaired.

Outstanding violations are;

1. No repairs have been completed to the water damaged wall and baseboards of the exercise room. Fungus is still located on the baseboard. A moisture meter was incorporated to determine the extent of the damage/intrusion of water into the wall and flooring. Indications of *high moisture* concentrations have been noted on/in the baseboards, flooring and the wall shared with the hall towards the emergency exit.
2. Mold remediation has not been performed
3. Several ceiling tiles have been damaged and must be replaced
4. Electrical 'J' box in rear hall must be covered
5. Electrical panel closet must be cleared for easy access to panels (3'x3' for each panel)
6. Outlet in 'stair master/elliptical' room requires a cover
7. Permit is required for electrical strips added in 'stair master/elliptical' room
8. Water heater closet lower outside air cannot be blocked
9. Water heater requires two seismic restraints to be located when measuring 1/3 down, 1/3 up, lag bolted to studs or reinforced wall
10. Small electrical panel in closet must be labeled



A total of at least 18 inspections have occurred at the property. The key inspection occurred on September 29, 2017. (Closing of the business)

A total of 14 Notices and Orders have been mailed to the property owner, and the business owner.

Several meetings with the business owner, property manager and NFD have occurred over this 2 year period.

Staff recommends the board find **2001 Novato Blvd., space 2025 known as Marin Fitness, APN: 132-183-16** as a Property Nuisance as outlined in *Section 1-6.2* of the Novato Municipal Code and abate all noted violations including mold remediation and obtaining a building permit for **electrical outlet strips**, pay assessed fees of \$1,548.00 per Administrative Policy 2.3M5 (Appeals Board Abatement Fee) and remaining fine balance of \$6,000.00 per NMC 1-7, Citation and Penalty for a total amount of \$7,548.00 within 14 days of this hearing. All permitted work to be finalized by a City of Novato Building Inspector within 90 days of permit approval.

Board Action(s)

- Proceed with Staff recommendation to deem **2001 Novato Blvd., space 2025 known as Marin Fitness** a Property Nuisance as outlined in *Section 1-6.2* of the Novato Municipal Code.

And/or

- Impose any additional conditions on the property, as the Board finds just and proper.

- Failure to correct the violations within the time frame ordered by the board will result in the City Attorney enforcing the Board Action in Superior Court via an inspection warrant.
- All costs and any fees associated with abatement of violations will be charged to the owner.
- Failure of the property owner to pay assessed fees may lead to additional fees or lien against the property.

RIGHT OF APPEAL

Any person having any record or legal Interest in the property may appeal the finding(s) of the Appeals Board to the Novato City Council, provided the appeal is made in writing, together with the established fee and filed with the City Clerk within **ten (10) days** from the date of this hearing.



704 McClay Road
APN: 140-241-03



At a Resale Inspection on April 17, 2014 the following work was discovered completed without a permit:

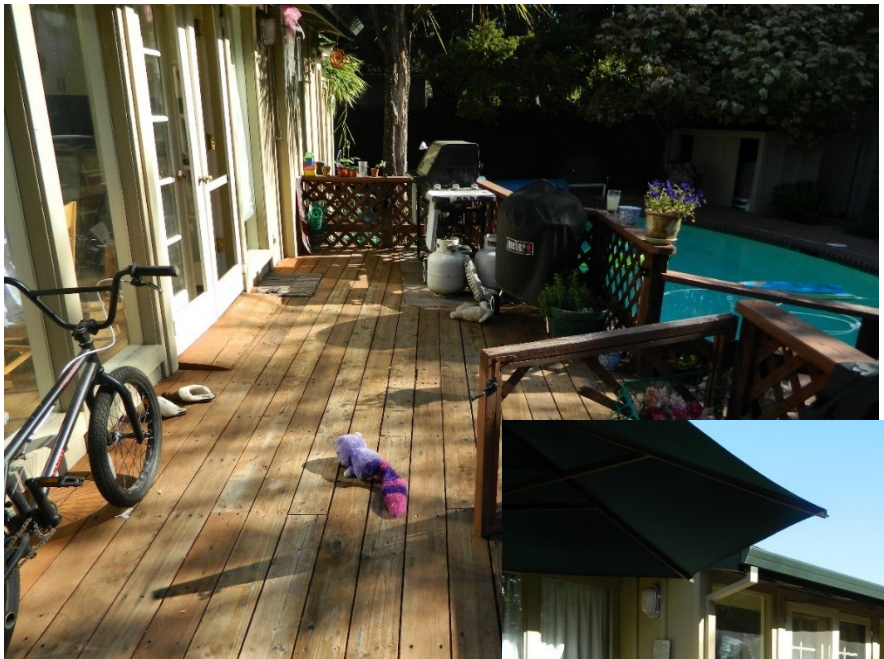
704 McClay Road

- 1. Hall bath remodel**
- 2. Dual windows (11) [WUI]**
- 3. Demo/alter side yard enclosed deck-violates set backs**
- 4. Demo or move sheds that violate setbacks (plastic approx. 6x8x8'h and wood 10'x12'x8'h)**
- 5. Electrical service upgrade**
- 6. Raised platform floor built in ¼ of garage**
- 7. Deck at rear of home approx. 25'x8'**

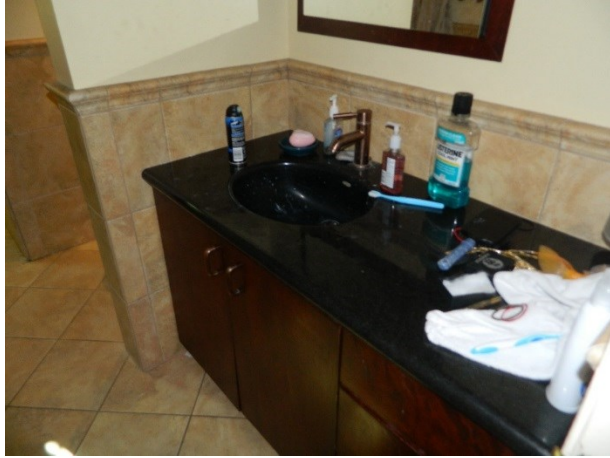
Violation of California Building/Residential Code, Section 105.1-work without permits.











Inspection report and a letter noting the violations were sent to the previous owner immediately following the inspection.

Due to non-compliance follow up notices were mailed to the homeowner on:

- June 3, 2016
- April 13, 2017
- November 10, 2017

Staff had several contacts with the property owners via personal contact, email and phone from April 2014 through November 2017 without resolution.

The Notice of Hearing was mailed to the current owner first class and certified on March 15, 2018. The property was posted with a Notice of Hearing on March 19, 2018.

Staff recommends the board find **704 McClay Rd., APN: 140-241-03** as a Property Nuisance as outlined in **Section 1-6.2** of the Novato Municipal Code and obtain a building permit for:

704 McClay Road

- 1. Hall bath remodel**
- 2. Dual windows (11) [WUI]**
- 3. Demo/alter side yard enclosed deck-violates set backs**
- 4. Demo or move sheds that violate setbacks (plastic approx. 6x8x8'h and wood 10'x12'x8'h)**
- 5. Electrical service upgrade**
- 6. Raised platform floor built in ¼ of garage**
- 7. Deck at rear of home approx. 25'x8'**

And pay assessed fees of \$1,548.00 per Administrative Policy 2.3M5 (Appeals Board Abatement Fee) within 14 days of this hearing. Work is to be finalized by a City of Novato Building Inspector within 90 days of permit approval.

Board Action(s)

- Proceed with Staff recommendation to deem **704 McClay Road** a Property Nuisance as outlined in *Section 1-6.2* of the Novato Municipal Code.

And/or

- Impose any additional conditions on the property, as the Board finds just and proper.

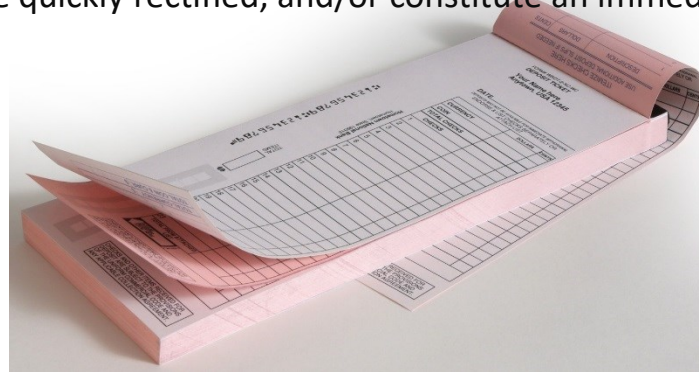
- Failure to correct the violations within the time frame ordered by the board will result in the City Attorney enforcing the Board Action in Superior Court via an inspection warrant.
- All costs and any fees associated with abatement of violations will be charged to the owner.
- Failure of the property owner to pay assessed fees may lead to additional fees or lien against the property.

RIGHT OF APPEAL

Any person having any record or legal Interest in the property may appeal the finding(s) of the Appeals Board to the Novato City Council, provided the appeal is made in writing, together with the established fee and filed with the City Clerk within **ten (10) days** from the date of this hearing.

Municipal Code 1-7 - Administrative Citation and Penalty

1-7.1 Applicability. This section provides for administrative citations which are in addition to all other legal remedies, administrative, criminal or civil that may be available to the city to enforce any violation of this code including, but not limited to, all violations of the municipal code, the California Building Standards Code and International Property Maintenance Code adopted by the city council, the failure to comply with any condition imposed by any entitlement, permit, agreement or environmental document issued or approved pursuant to the municipal code or applicable state laws. Administrative citations will typically be issued to abate violations that are readily apparent, require minimal research and documentation, can be quickly rectified, and/or constitute an immediate threat to health and safety.



Administrative Penalties.

- a. Except as provided under subsection (c), for any violation that may be charged as no more than an infraction under this code, a maximum penalty of one hundred **(\$100.00)** dollars for a first violation; a maximum penalty of two hundred **(\$200.00)** dollars for a second violation of the same ordinance within one year; and a maximum penalty of five hundred **(\$500.00)** dollars for a third or subsequent violation of the same ordinance within one year.
- b. For any violations that may be charged as a misdemeanor under this code, a maximum penalty of one thousand **(\$1,000.00)** dollars per violation.

c. For any violation of the construction codes adopted under chapter 4 of this code that may be charged as no more than an infraction, a maximum penalty of one hundred **(\$100.00)** dollars for a first violation; a maximum penalty of five hundred **(\$500.00)** dollars for a second violation of the same ordinance within one year; and a maximum penalty of one thousand **(\$1,000.00)** dollars for a third or subsequent violation of the same ordinance within one year.



1-7.5 Payment of Administrative Penalties. Upon receipt of a citation, the responsible person(s) will be required to do the following:

- a. Pay the penalty to the city within 15 days from the date of service of the administrative citation. All penalties assessed shall be payable to the City of Novato. Payment of a penalty shall not excuse or discharge the failure to correct the violation(s) nor shall it bar further enforcement action by the city, or
- b. File an appeal of the administrative citation pursuant to subsection 1-7.6 and either deposit the penalty, or file a request for an advance deposit hardship waiver pursuant to subsection 1-7.7.

1-7.6 Appeal of Administrative Citation.

- a. Any recipient of an administrative citation may contest that there was a violation of the City of Novato Municipal Code or that the contestant is the responsible person by completing a request for hearing form and returning it to the City of Novato within 15 days from the date of service of the administrative citation, together with an advanced deposit of the penalty amount or submission of an advance deposit hardship waiver pursuant to subsection 1-7.7.
- b. Any administrative citation penalty which has been deposited shall be refunded if it is determined, after a hearing, that the person charged in the administrative citation was **not responsible** for the violation(s) or that there was **no violation(s)** as charged in the administrative citation.

1-7.7 Advance Deposit Hardship Waiver.

- a. Any person who intends to request a hearing to contest an administrative citation and who claims to be financially unable to make the advance deposit of the penalty amount as required in subsection 1-7.6 may file a request for an advance deposit hardship waiver.
- b. The request shall be filed with the community development department within 15 days following the date of service of the administrative citation.
 - 30 days for response; by the Finance Manager
 - 10 days to remit deposit to secure hearing

1-7.8 Hearing Procedures.

Appeals of administrative citations shall be considered and decided upon by the zoning, housing and building codes appeals board.

- Date set no less than 15 days and no more than 60 days
- Only relevant evidence/information will be considered
- Responsible person may present witnesses
- Forfeit of penalty and any other remedies if recipient fails to appear
- May be postponed no more than once, for no more than 60 days

1-7.9 Decision.

- a. After considering all of the testimony and evidence submitted at the hearing, a written decision to uphold or deny the administrative citation finding that there was a violation of the City of Novato Municipal Code and/or that the appellant is the responsible person shall be issued within **ten business days** of the hearing. The decision of the zoning, housing and building codes appeals board shall be final.
 - If citation upheld, penalty is retained AND actual costs incurred by the City shall be charged
 - If citation cancelled, a refund will be issued within **30 days**, if a deposit was received

1-7.10 Failure to Pay Penalty. The failure of any person to pay the penalty assessed by an administrative citation within the time specified on the citation and/or decision at a hearing conducted under this section shall constitute a debt owed to the city and may result in any of the following:

- Enforced as a personal obligation; interest will accrue beginning from the 20th day after decision
- City may collect through small claims court; plus all costs associated with collection
- City may withhold licenses, permits, or other entitlements to responsible party of any project, property or application of any kind

1-7.11 Right to Judicial Review.

Any person aggrieved by an administrative decision of the zoning, housing and building codes appeals board on an administrative citation may obtain review of the administrative decision by filing a petition for review with the Marin County Superior Court, in accordance with the time lines and provisions as set forth in California Government Code Section 53069.4. In the event that the person aggrieved prevails in the judicial review, the appeal processing fee described within this section shall be waived or refunded, whichever may be applicable.



City of Novato

Housing, Zoning, and Building Codes Appeal Board

**NEXT HEARING DATE
TO BE DETERMINED**