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Landlord-neighbor lawsuit settles; small claims grow house lawsuit settles on eve of trial

Thadeus Greenson/The Times-Standard

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A small claims lawsuit brought against a Eureka landlord by neighbors of one of his residential properties scheduled to go to trial this week has settled out of court.

A total of 14 neighbors living in the area surrounding Alan Oliver Ebenstein's rental property in the 200 block of Hillsdale Street in Eureka sued the Santa Barbara man, each seeking \$7,500 and claiming that a marijuana growing operation in Ebenstein's rental posed a nuisance that he failed to abate. Ebenstein -- a visiting economics professor at University of California Santa Barbara and an adjunct scholar at the Cato Institute -- appealed an October Humboldt County Superior Court ruling that awarded the neighbors a total of \$32,000, and a new trial was slated to begin in the case Tuesday.

However, attorneys told a judge in the case that both sides have now agreed to a settlement, the details of which have not been made public, and the case has been placed on Friday's dismissal calendar.

Ruth Robertson, one of the plaintiffs in the case, said she couldn't comment on the settlement but is glad to put the ordeal behind her and hopes the case can empower people in other neighborhoods with nuisance properties to take a stand.

"We wanted to take a stand and we wanted to take our neighborhood back," Robertson said. "We also wanted to provide a tool for other neighborhoods to use."

Calls placed to Ebenstein Tuesday were not immediately returned but Ebenstein's

attorney, Andy Stunich of the Eureka firm Bragg, Perlman, Russ, Stunich and Eads, said his client did not settle the case.

"The insurance company that insured the property he owned, they settled the case on his behalf," Stunich said, declining to name the insurance company. "The reason they settled the case, and the reason they settle cases like this, is they figure the cost of hiring a lawyer to defend a case at trial is a lot."

Stunich said the settlement amount in the case is confidential.

According to court documents, plaintiffs in the case argued that the pungent smell of growing marijuana plants coming from Ebenstein's old Victorian house on Hillsdale Street filled the neighborhood and that neighbors lived in constant fear of fires sparking from faulty wiring at the property. Property values in the neighborhood also decreased due to an increased police presence because of the grow house, they claimed, and neighbors stopped letting their children play in their front yards due to safety concerns.

In October, Humboldt County Superior Court Judge Dale Reinholtsen ruled that Ebenstein's actions, or lack thereof, constituted a nuisance and awarded the neighbors a total of \$32,000, with each of the 14 plaintiffs receiving a sum of either \$4,000 or \$2,000. The case was considered to be a unique application of nuisance property laws, and some thought it would give neighbors of residential grow operations throughout the county the inspiration to

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stop calling the police and take their problems to the courts.

Reached after the ruling, Ebenstein, of Santa Barbara, said he planned to appeal the ruling because Reinholtsen made "significant factual errors" in the case.

Court documents in the case indicate that the plaintiffs had long been concerned about grow operations in Ebenstein's Hillsdale Street property and contacted Ebenstein in March 2009 with an anonymous phone call to make him aware of their concerns. Ebenstein has said he inspected the property after receiving the call and found no evidence of a grow operation on the premises, but Reinholtsen's ruling indicates that inspection never took place.

The Eureka Police Department served a search warrant on the property on Jan. 20, 2010, and reported finding almost 4 pounds of dried, processed marijuana and 79 growing plants, as well as Ziploc bags, scales and handwritten directions for the grow room. According to court documents, one of the tenants of the property also admitted to officers that the "premises were 'set up' for growing marijuana" when he moved in in September 2009, and that a crop of marijuana plants was even ready for harvest at the time.

Court documents also indicate that the floor of an upstairs room of the residence had been covered in plastic and then with about 6 inches of soil, wall to wall. The Eureka Fire Department inspected the property, according to the documents, and numerous code violations and hazards were found, leading Pacific Gas and Electric Co. to pull the property's electricity meter, according to the documents.

Stunich said Tuesday that he thinks the whole situation was "unfair" to Ebenstein, and that he wishes the plaintiffs in the case had done more to notify his client of their concerns than simply make an anonymous phone call.

"I kind of feel sorry for what Mr. Ebenstein went through because he had no knowledge that (his tenants) were growing marijuana," Stunich said, adding that Ebenstein would have worked to address the situation if he had been aware of it. "I've never known a landlord who wanted people in their property growing marijuana."

Robertson said she is glad that she and her fellow neighbors took a stand, after having watched their neighborhood degrade to the point that she said she felt the need to install thousands of dollars worth of motion-sensor lights and security cameras on her property. After repeatedly calling law enforcement, Robertson said, she and neighbors started looking for other tools to address the situation and settled on a small claims lawsuit.

Bringing the case not only addressed the issues at Ebenstein's property, Robertson said, but also had a chilling effect on other problem neighbors. Slowly but surely, she said, the neighborhood has improved.

She strongly encouraged neighborhoods facing similar issues to take their cases to court.

"The bottom line is get to know your neighbors, do neighborhood watch, share information, call law enforcement and document it, call the city and document it, send certified letters," she said. "Document everything, and build your case. ... The one good thing I can say about this whole thing is it brought us back together as a neighborhood."

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