

**El Dorado County  
Code Enforcement Division**

**ADMINISTRATIVE HEARING  
El Dorado County's Exhibits**

**Code Enforcement Case No.: CE20-0198**

**Hearing Date: 3/10/2021**

**Hearing Time: 11:00am via Zoom**

**Hearing Officer: William M. Wright**

**Appellant: ALL ABOUT EQUINE ANIMAL RESCUE**

# El Dorado County's Exhibits

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# EXHIBIT 1

# El Dorado County Recorder-Clerk

## Kiosk

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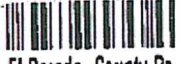
[Next Result](#)

Document Type
GRANT DEED

Recording Information	
Document Number:	Recording Date:
2018-0013813	04/13/2018 12:12:47 PM
Number Pages:	
4	

Book Page	
Book	Page

Names
<b>Grantor:</b>
CRIST FAMILY CO
CONGER TRUST
CRIST ROGER E TR
CONGER JAMES PHILIP TR
CRIST ROGER E TRUST
<b>Grantee:</b>
ALL ABOUT EQUINE ANIMAL

<p>RECORDING REQUESTED BY:</p> <p>Placer Title Company</p> <p>WHEN RECORDED MAIL TO:</p> <p>All About Equine Animal Rescue, Inc. 2201 Francisco Drive 140-174 El Dorado Hills, CA 95762</p>	 <p>El Dorado, County Re William Schultz Co Re <b>DOC- 2018</b> REC: 6-PLACER TL Friday, APR 13, 2018 Ttl Pd \$688.00</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Order No: P-258644 LB      APN: 071-051-56-10

### Grant Deed

(Please fill in document title(s) on this line)

- Exempt from fee per GC27388.1 due to being recorded in connection with imposition of documentary transfer tax, or,
- Exempt from fee per GC27388.1 due to the maximum fees being paid on do
- Partially exempt from fee per GC27388.1. Only \$75.00 to be charged as \$1 recorded immediately prior hereto or,
- Exempt from fee per GC27388.1 due to being recorded in connection with dwelling to an owner-occupier, or,
- Exempt from the fee per GC27388.1(a) (1); Not related to real property, or,
- Exempt from fee under GC27388.1 for the following reasons:

NOTE: The following exemptions may not be acceptable

- Exempt from fee per GC27388.1 due to being recorded in connection with a

Parcel: 07105156100 APN 071 051 56 100

[Back to Search](#)



El Dorado, County Recorder  
William Schultz Co Recorder Office

DOC- 2018-0013813-00  
Acc 1 6-PLACER TITLE CO

Friday, APR 13, 2018 12:12:47

Ttl Pd \$683.00 Nbr- 0001928676  
RAB / C1 / 1-4

RECORDING REQUESTED BY:

Placer Title Company

WHEN RECORDED MAIL TO:

All About Equine Animal Rescue, Inc.  
2201 Francisco Drive 140-174  
El Dorado Hills, CA 95762

Order No: P-258644-LB

APN: 071-051-56-100

Grant Deed

(Please fill in document title(s) on this line)

- Exempt from fee per GC27388.1 due to being recorded in connection with concurrent transfer that is subject to the imposition of documentary transfer tax, or,
- Exempt from fee per GC27388.1 due to the maximum fees being paid on documents in this transaction, or,
- Partially exempt from fee per GC27388.1. Only \$75.00 to be charged as \$150.00 in fees has been paid on documents recorded immediately prior hereto or,
- Exempt from fee per GC27388.1 due to being recorded in connection with concurrent transfer that is a residential dwelling to an owner-occupier, or,
- Exempt from the fee per GC27388.1(a) (1); Not related to real property, or,
- Exempt from fee under GC27388.1 for the following reasons:

PCOS  
FILED

NOTE: The following exemptions may not be acceptable for use in all counties:

- Exempt from fee per GC27388.1 due to being recorded in connection with a transfer that was subject to documentary transfer tax which was paid on document recorded previously on (date) as document number of Official Records, or,
- Exempt from fee per GC27388.a due to the maximum fees having been paid on documents in the transaction(s) recorded previously on (date) as document number(s) of Official Records, or,
- Partially exempt from fee per GC27388.1. Only \$75.00 to be charged as \$150.00 in fees having been paid on documents in this transaction(s) recorded previously on (date) as document number(s) of Official Records, or,
- Exempt from fee per GC27388.1 due to it being recorded in connection with a transfer of real property that is a residential dwelling to an owner-occupier. The recorded document transferring the dwelling to the owner-occupier was recorded on (date) as document number(s).

THIS PAGE ADDED TO PROVIDE SENATE BILL 2 EXEMPTION INFORMATION  
(Additional recording fee applies)

RECORDING REQUESTED BY

Placer Title Company  
Escrow Number: P-258644  
Branch: 201

AND WHEN RECORDED MAIL TO

All About Equine Animal Rescue, Inc.  
2201 Francisco Drive 140-174  
El Dorado Hills, CA 95762

A.P.N.: 071-051-56-100

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**GRANT DEED**

The undersigned grantor(s) declare(s):

Documentary transfer tax is \$660.00 City Transfer Tax: \$0.00

( X ) Unincorporated Area ( ) City of

( X ) computed on full value of property conveyed, or

( ) computed on full value less value of liens and encumbrances remaining at time of sale.

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **James Philip Conger, as Trustee or the successor trustee of The Conger Family Trust dated November 10, 2009, as amended, as to a 49.5% interest and Roger E. Crist, Trustee of The Roger E. Crist Defined Benefit Pension Plan Trust, as to a 15.15% interest and Crist Family Company, an Idaho Limited Liability Company, as to a 35.35% interest**

Hereby GRANT(S) to **All About Equine Animal Rescue, Inc.**

The land described herein is situated in the State of California, County of El Dorado, unincorporated area, described as follows:

Parcels 1 as shown on that certain Parcel Map being Parcel 1 of P.M. 48/47 and portions of the S 1/2 of Sec. 30 & a portion of Sec. 31, T. 12N., R. 9 E., M.D.M., filed in the Office of the County Recorder of El Dorado County, State of California, on October 31, 2011, in Book 50 of Parcel Maps at Page 128.

EXCEPTING THEREFROM a non-exclusive road and public utilities easement described as follows:

All that real property situated in the North half of Section 31, Township 12 North, Range 9 East, M.D.B.&M, County of El Dorado, State of California being a portion of Parcel 1, as shown on that certain Parcel Map filed October 31, 2011 in Book 50 of Parcel Maps, at page 128 recorded in the County of El Dorado, Sate of California, more particularly described as follows:

The West 50.00 feet measured at right angles from the West line of said Parcel 1.  
Containing 2.174 acres, more or less.

APN: 071-051-56-100

MAIL TAX STATEMENTS TO PARTY SHOWN ON FOLLOWING LINE; IF NO PARTY SHOWN, MAIL AS DIRECTED ABOVE

SAME AS ABOVE

Name	Street Address Page 1 of 3	City & State
------	-------------------------------	--------------

Dated: April 11, 2018

The Conger Family Trust dated November 10, 2009

By: [Signature]  
James Philip Conger, Trustee

The Roger E. Crist Defined Benefity Pension Plan Trust

By: \_\_\_\_\_  
Roger E. Crist, Trustee

Crist Family Company, an Idaho Limited Liability Company

By: \_\_\_\_\_  
Roger E. Crist, Member

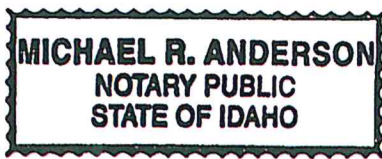
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of IDAHO )  
County of ADA ) ss.

On APRIL 12, 2018 before me, MICHAEL R. ANDERSON Notary Public personally appeared JAMES PHILIP CONGER who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of IDAHO ~~California~~ that the foregoing paragraph is true and correct. WITNESS my hand and official seal.

SIGNATURE [Signature]  
My Comm Exp 3/27/24



Dated: April 11, 2018

The Conger Family Trust dated November 10, 2009

By: \_\_\_\_\_  
James Philip Conger, Trustee

The Roger E. Crist Defined Benefit Pension Plan Trust

By: *Roger E. Crist*  
Roger E. Crist, Trustee

Crist Family Company, an Idaho Limited Liability Company

By: *Roger E. Crist*  
Roger E. Crist, Member

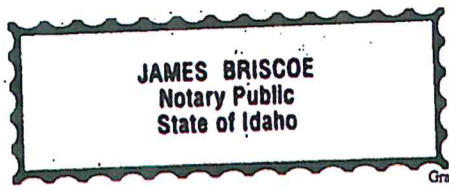
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of IDAHO )  
County of BLAINE ) ss.

On 4/12/18 before me, *JAMES BRISCOE* Notary Public  
personally appeared *ROGER E. CRIST* who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of ~~California~~ IDAHO that the foregoing paragraph is true and correct. WITNESS my hand and official seal.

SIGNATURE *[Signature]*



04/13/2018,20180013813



# EXHIBIT 2



Office of the Assessor

# Historical Property Information

Parcel Number: **071-051-56-100**

Property Address:

Assessor's information is for assessment and tax purposes only and should not be relied upon for status of development or building purposes.

**Current Property Owners:**

ALL ABOUT EQUINE ANIMAL RESCUE  
 2201 FRANCISCO DR #140 174  
 EL DORADO HILLS, CA 95762  
 Address change date: 4/26/2018  
 100% Ownership: Separate Property

INC

0% Ownership:

**Property Description:**

Primary Use\*\*: **24, RURAL LAND OVER 20.0 AC. WITH NO RES UNIT**  
 Subdivision Tract Number:  
 Subdivision Tract Name:  
 APN Status: **00, Active**  
 Reference: **PM 50/128/1**  
 Tax Rate Area: **083-048**  
 Last Appraisal Effective Date: **12/31/2012**  
 Last Appraisal Reason: **100% CHANGE IN OWNERSHIP**  
 MPR Card: **071-051-56**

\*\*The USE is only reviewed at the time of the last taxable event, and may not be a legal use

2020 - 2021 Taxable Property Values for: **071-051-56-100**

Property	Value
Land	\$220,779
Land Total	\$220,779
Improvement Total	\$0
Personal property Total	\$0
Total Roll	\$220,779
(Exemptions Total)	\$0
Net Roll	\$220,779

Associated Maps for: **071-051-56-100**

Most Recent Plat: [071-05](#)  
 Historical Plat: [071-05](#)  
 Subdivision Maps:

Event List for: **071-051-56-100**

Roll	Event Date	Bill Status	Event Status	Seq #	Event Type	Stmt. Status	ID	Tax Bill #	Value
2018	<a href="#">4/13/2018</a>	Active Suppl	Active	1	Change in Ownership		<a href="#">0013813</a>		
2018	<a href="#">1/23/2018</a>	Inactive Suppl	Not to be billed	1	Change in Ownership		<a href="#">0002479</a>		
2018	<a href="#">1/1/2018</a>	Active	Annual Roll	1	Roll	Pending			\$220,779
2017	<a href="#">4/13/2018</a>	Active Suppl	Active	1	Change in Ownership		<a href="#">0013813</a>		
2017	<a href="#">1/23/2018</a>	Inactive Suppl	Not to be billed	1	Change in Ownership		<a href="#">0002479</a>		
2017	<a href="#">1/1/2017</a>	Active	Annual Roll	1	Roll	Paid		043457	\$216,450
2016	<a href="#">1/1/2016</a>	Active	Annual Roll	1	Roll	Paid		043404	\$212,206
2015	<a href="#">1/1/2015</a>	Active	Annual Roll	1	Roll	Paid		043426	\$209,019
2014	<a href="#">1/1/2014</a>	Active	Annual Roll	1	Roll	Paid		043427	\$204,926
2013	<a href="#">1/1/2013</a>	Active	Annual Roll	1	Roll	Paid		801013	\$204,000
2013	<a href="#">1/1/2013</a>	Replaced by Corrected bill	Been Corrected	1	Roll	Paid		043451	\$174,574
2012	<a href="#">3/28/2012</a>	Active Suppl	Billed	1	Change in Ownership	Paid	<a href="#">0041783</a>	412738S	\$200,000
2012	<a href="#">1/1/2012</a>	Active	Annual Roll	1	Roll	Paid		043447	\$171,151
2011	<a href="#">3/28/2012</a>	Active Suppl	Billed	1	Change in Ownership	Paid	<a href="#">0041783</a>	314801S	\$200,000

2011	<a href="#">10/31/2011</a>	Inactive Suppl	Not to be billed	1	Change in Ownership		<a href="#">0050408</a>		
2011	<a href="#">1/1/2011</a>	Supplemental Roll	Annual Roll	1	Roll	No Bill			\$167,795

Property Characteristics for: **071-051-56-100**

Property Characteristic	Description
Acreage	61.680 ac
Book Category Number	2071
Current Record Flag	Yes

Parcel Comparable Sales for: **071-051-56-100**

This Parcel Has No Comparable Sales Reports.

Parcel Split Background for: **071-051-56-100**

This Parcel Was Formed From Parcel: [071-051-55-100](#)  
Parcel Change Date: 10/31/2011

Related Accounts for: **071-051-56-100**

This Parcel Has No Related Accounts.

Owner Change History for: **071-051-56-100****Recorded Document: [2018-0013813](#)**

Record Change Date: 4/13/2018  
Effective Owner Change Date: 4/13/2018  
Proposition 13 Appraisal: Yes  
Value Change: 100%  
Document Transfer Tax: \$660.00  
Preliminary Change of Ownership: [2018-0013813](#)

**Recorded Document: [2018-0002479](#)**

Record Change Date: 1/23/2018  
Effective Owner Change Date: 1/23/2018  
Sales Remarks: No Reap As Per R&T 462.160(B1).M  
Preliminary Change of Ownership: [2018-0002479](#)

**Recorded Document: [2012-0041783](#)**

Record Change Date: 8/22/2012  
Effective Owner Change Date: 3/28/2012  
Proposition 13 Appraisal: Yes  
Value Change: 100%  
Document Transfer Tax: \$666.54  
Sales Reject Reason: Not an open market transaction  
Preliminary Change of Ownership: [2012-0041783](#)

**Recorded Document: [2011-0050408](#)**

Record Change Date: 10/31/2011  
Effective Owner Change Date: 10/31/2011  
Preliminary Change of Ownership: [2011-0050408](#)

**Recorded Document: [2009-0044298](#)**

Record Change Date: 8/31/2009  
Effective Owner Change Date: 8/27/2009  
Proposition 13 Appraisal: Yes  
Value Change: 100%  
Document Transfer Tax:  
Sales Reject Reason: Deed in lieu of foreclosure  
Preliminary Change of Ownership: [2009-0044298](#)

**Recorded Document: [1-0014723](#)**

Record Change Date: 3/28/2012

2/23/2021

History

Effective Owner Change Date: , Sequence Number:  
Preliminary Change of Ownership: 1-0014723

# EXHIBIT 3

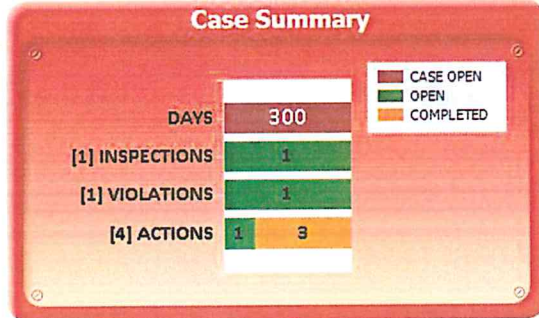
Enter CASE Number CE20-0198

## Case Details

County of El Dorado

**Case Number**  
**CE20-0198**

Description: Gates across road easement w/o permit		Status: OPEN	
Type: CE STRUCTURES		Subtype: UNPERMITTED	
Opened: 5/1/2020	Closed:	Last Action: 3/10/2021	Flw Up:
Site Address: COUNTY OF EL DORADO, CA			
Site APN: 07105156		Officer: TODD A YOUNG	
Details: 4-30-20 site visit two gates across the road on the east and west sides of the property. see pictures. Nov. 3 2020- office meeting in reference to CE20-0198 the owner, her attorney , Evan mattes, Robert Peters (by phone and myself. we discussed the issue at length and both sides presented. there concerns no conclusions were reached. Hearing date scheduled via Kathy on 3/10/2021 at 11:00am			



ADDITIONAL SITES
LINKED CASES

CHRONOLOGY				
CHRONOLOGY TYPE	STAFF NAME	ACTION DATE	COMPLETION DATE	NOTES
Administrative Hearing	TODD A YOUNG	3/10/2021		
Notice to Correct	TODD A YOUNG	5/5/2020	5/5/2020	MAILED LETTER REG AND CERTIFIED TICKLE DATE 5/30/2020 CERTIFIED ID# 7019-2280-0001-8012-4546
Response Letter	JOHANNA MC GILLIVRAY	5/20/2020	5/20/2020	OWNER REQUESTED A HEARING. A POSTPONED LETTER WAS BOTH MAILED AND EMAILED TO OWNER.
Site Visit	TODD A YOUNG	4/30/2020	4/30/2020	4-30-20 site visit two gates across the road on the east and west sides of the property. see pictures.

CONTACTS					
NAME TYPE	NAME	ADDRESS	PHONE	FAX	EMAIL
OWNER	ALL ABOUT EQUINE ANIMAL RESCUE	2201 FRANCISCO DR #140-174 EL DORADO HILLS, CA 95762	(916)520-4223		wendy@allaboutequine.org

FINANCIAL INFORMATION										
DESCRIPTION	ACCOUNT	QTY	AMOUNT	PAID	PAID DATE	RECEIPT #	CHECK #	METHOD	PAID BY	CLTD BY
HEARING FEES	3750500 1942	0	\$200.00	\$200.00	9/1/20	R24884	1136	CHK-PLACERVILLE	Burton Richards & Swett, P.C.	JMS2
Total Paid for CODE ENFORCEMENT FEES:			\$200.00	\$200.00						
TOTALS:			\$200.00	\$200.00						

INSPECTIONS						
INSPECTION TYPE	INSPECTOR	SCHEDULED DATE	COMPLETED DATE	RESULT	REMARKS	NOTES
SITE VISIT						

VIOLATIONS						
VIOLATION TYPE	USER NAME	OBSERVED DATE	CORRECTED DATE	LOCATION	REMARKS	NOTES
Gate	TODD A YOUNG	4/30/2020			W/O adm. permit	County Ordinance 130.30.070 Gates - The placement of gates across county-maintained rights-of-way shall be prohibited. An Administrative Permit is required for placing gates across non-county maintained roads or private driveways entering residential and nonresidential development." 4-30-20 site visit two gates across the road on the east and west sides of the property. see pictures.

Enter CASE Number CE20-0198

<h2 style="margin: 0;">Case Details</h2> <p style="margin: 0;">County of El Dorado</p>	<p><b>Case Number</b> <b>CE20-0198</b></p>
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ATTACHMENTS					
ATTACHMENT TYPE	CREATED	OWNER	DESCRIPTION	ETRAKIT	PHOTO
DOC	5/12/2020	JOHANNA MC GILLIVRAY	CE20-0198 CERTIFIED CARD.pdf	0	
DOC	5/12/2020	JOHANNA MC GILLIVRAY	CE20-0198 SIGNED NTC.pdf	0	
DOC	5/12/2020	JOHANNA MC GILLIVRAY	CE20-0198 Envelope.doc	0	
DOC	5/20/2020	JOHANNA MC GILLIVRAY	CE20-0198 OWNER REQUEST FOR ADMIN HEARING.pdf	0	
DOC	5/20/2020	JOHANNA MC GILLIVRAY	CE20-0198 SIGNED REPOSE LETTER.pdf	0	

Printed: Wednesday, 24 February, 2021

Enter CASE Number CE20-0198

Navigation icons: Home, Back, 3 of 3, Forward, Refresh, Previous, 100%, Print, Find | Next

<h2 style="margin: 0;">Case Details</h2> <p style="margin: 0;">County of El Dorado</p>	<p><b>Case Number</b> <b>CE20-0198</b></p>
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ATTACHMENTS					
ATTACHMENT TYPE	CREATED	OWNER	DESCRIPTION	ETRAKIT	PHOTO
DOC	9/3/2020	JESSICA SLIGHTAM	CE20-0198 - REQUEST FOR NOTICE OF COMPLIANCE - LETTER FROM ATTORNEY.pdf	0	
DOC	5/1/2020	TODD A YOUNG	Gate info	0	
DOC	9/24/2020	TODD A YOUNG	Letter from Attorneys 9-16-20	0	

Printed: Wednesday, 24 February, 2021



# EXHIBIT 4



## EL DORADO COUNTY CODE ENFORCEMENT UNIT

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PLACERVILLE OFFICE:

2850 Fairlane Court, Placerville, CA 95667

BUILDING

(530) 621-5315 / (530) 622-2705 Fax

[bldgdept@edcgov.us](mailto:bldgdept@edcgov.us)

PLANNING

(530) 621-5355 / (530) 642-0508 Fax

[planning@edcgov.us](mailto:planning@edcgov.us)

LAKE TAHOE OFFICE:

924 B Emerald Bay Rd

South Lake Tahoe, CA 96150

(530) 573-3460 / (530) 542-9082 Fax

[tahoebuild@edcgov.us](mailto:tahoebuild@edcgov.us)

CODE ENFORCEMENT UNIT

2850 Fairlane Court, Placerville, CA 95667

(530) 621-5999 / (530) 622-2921 Fax

[cdacode.enforcement@edcgov.us](mailto:cdacode.enforcement@edcgov.us)

May 01, 2020

ALL ABOUT EQUINE ANIMAL RESCUE  
2201 FRANCISCO DR #140-174  
EL DORADO HILLS, CA 95762

Re: CE20-0198

COUNTY OF EL DORADO, CA  
APN: 07105156

### NOTICE TO CORRECT Construction without a permit

An inspection was made at the above referenced site on 4-30-20. The following observations were made:

1. Gate

County Ordinance 130.30.070 Gates - The placement of gates across county-maintained rights-of-way shall be prohibited. An Administrative Permit is required for placing gates across non-county maintained roads or private driveways entering residential and nonresidential development."

Two gates across the road one on the east and west sides of the property.

Failure to abate the violation(s) or establish an approved abatement schedule in writing by 6/4/2020 may result in the issuance of an Administrative Citation with associated fines and fees. If you wish to request more time, please respond to this letter in writing or Contact Code Enforcement Officer Todd Young at 530-621-5850 stating the reason that the additional time is necessary and provide an outline of your intended plan and time frame to abate the violation(s). The Code Enforcement Officer will review your request and advise you of your findings.

If the responsible person receives an Administrative Citation and fails to make a timely request for an administrative hearing (procedure set for in section 09.02.390 of the County Code) on the

imposition of the administrative penalty, the penalty shall be final. The violation may also be referred to the District Attorney's Office for possible further action. In any case the Notice to Correct may be recorded with the County Recorder per County Ordinance 09.02.150, if the violation(s) are not abated within 30 days. This is not a lien but will produce a flag during a title search and is done to protect prospective buyers per County Ordinance 09.02.140.

Building department information and appointments can be made by calling 530-621-5315.

Sincerely,

A handwritten signature in blue ink that reads "Todd Young". The signature is written in a cursive style with a large, sweeping "Y" at the end.

TODD A YOUNG  
Code Enforcement Officer  
Code Enforcement Unit

# EXHIBIT 5

**BURTON & SWETT, P.C.**

A Professional Corporation

Attorneys

Rod W. Burton, Esq.  
Thomas M. Swett, Esq.

47 Main Street  
Sutter Creek, California 95685

tel. 209.267.8301  
fax. 209.992.4077

tom@burtonswett.com

July 2, 2020

**VIA FIRST CLASS & ELECTRONIC MAIL**

El Dorado County Code Enforcement Unit  
2850 Fairlane Court  
Placerville, California 95667  
cdacode.enforcement@edcgov.us

RECEIVED  
PLANNING DEPARTMENT  
2020 JUL -6 AM 11:12

**Re: REQUEST FOR NOTICE OF COMPLIANCE (County Code § 9.02.170)  
Notice to Correct file no.: CE20-0198  
All About Equine Animal Rescue, Inc.; APN 07105156**

Dear Sir or Madame:

I hope this correspondence finds you and your family well during these unusual times. My office represents All About Equine Animal Rescue, Inc. ("AAE") with regards to El Dorado County Assessor's Parcel number 071-051-56-100 (the "AAE Property") and the above-referenced Notice to Correct. Please direct all future correspondence regarding this matter to my attention. With reference to the Notice to Correct dated May 1, 2020 and having file number CE20-0198 directed to AAE ( "Notice to Correct"), **I am writing to you to request a Notice of Compliance pursuant to El Dorado County Code section 9.02.170.1** Based upon the legal authority analyzed below, the Notice to Correct was erroneously issued and should be rescinded via a duly issued Notice of Compliance.

Relevant to the Notice to Correct, the AAE Property is encumbered by two access easements in favor of neighboring property owners. The first easement provides access from Highway 49 and the second provides access from Rattlesnake Bar Road. By their terms, these two easements are non-exclusive, may be used for ingress, egress, and public utilities only, and are a maximum of 50 feet in width. Importantly, said easements do not contain any language that would prohibit agricultural fencing, including necessary gates, adjacent to or across those easements.

The Notice to Correct was issued as a result of AAE having constructed new perimeter fencing on its property for the purpose of containing and grazing livestock. Because it is the express intent of the El Dorado County Zoning Code to

<sup>1</sup> All section references in this memorandum are with reference to the El Dorado County Code.

respect existing property rights between private parties, before analyzing the gate ordinance and its exemption for AAE's fencing, we offer the following analysis of background property law in support of AAE's position. (§ 130.10.040.)

### **Background Easement Law**

Easements as a property right are restricted to the specific rights outlined by the instrument creating the easement itself—rights that are by definition less than ownership of the land upon which the easement is described. (*Mesnick v. Caton* (1986) 183 Cal.App.3d 1248, 1261.) Here, the easements provide, very simply, for a “road” and for the installation of “public utilities” for the benefit of properties neighboring the AAE Property—there are no other qualifications, stipulations or uses provided for in the instruments themselves.

Because an easement is something less than ownership of the burdened property, every ownership right that is not inconsistent with the rights granted by the easement is reserved to the owner of the servient estate—AAE. Because of this implied reservation, when the owner of an easement exercises his or her rights, they must do so “in such a way as to impose *as slight a burden as possible* on the servient tenement.” (*Locklin v. City of Lafayette* (1994) 7 Cal.4th 327, 356, fn. 17 [emphasis added].) In the context of a nonexclusive easement such as this, all users of the easement area have a duty to accommodate each other. (*Applegate v. Ota* (1983) 146 Cal.App.3d 702, 712.) Therefore, the owner of the servient estate—AAE—can use its property in any manner that does not unreasonably interfere with the easement and the owner of the dominant estate cannot use any more of the easement than what is reasonably necessary for his or her current needs. (*Scruby v. Vintage Grapevine, Inc.* (1995) 37 Cal.App.4th 697, 703.)

For example, not only can the owner of a servient estate not be excluded from a 50-foot nonexclusive easement, the holder of the easement cannot use any more of that 50-foot strip than is reasonably necessary for his or her needs. (*Scruby v. Vintage Grapevine, Inc.* (1995) 37 Cal.App.4th 697 [easement holder only needed 15 feet of 52-foot-wide easement and could not complain about encroachments outside the area actually needed].) And, the owner of the servient estate may make use of the easement area, including the placement of permanent structures or improvements, as long as the use does not unreasonably interfere with the use of the easement. (*Ibid.* [water tanks and grapevines allowed to encroach upon unused portion of easement area]; see *Camp Meeker Water System, Inc. v. Public Utilities Commission* (1990) 51 Cal.3d 845, 867.)

One such improvement that the owner of a servient estate is allowed to construct is perimeter fencing. (*Dolske v. Gormley* (1962) 58 Cal.2d 513, 520.). Unless the express language of the grant specifically provides that an easement area will remain unobstructed and open at all times (the easements at issue do not contain any such provision) perimeter fencing includes the right to construct a gate across the easement area. (*Van Klompenburg v. Berghold* (2005) 126 Cal.App.4th 345, 350;

*McCoy v. Matich* (1954) 128 Cal.App.2d 50, 53.) And, as recognized by the California Supreme Court, the construction of gates at property boundaries in a rural setting such as this is not an unreasonable use. (*O'Banion v. Borba* (1948) 32 Cal.2d 145, 154-55.) Therefore, the owner of a rural servient estate may install fencing and gates within the easement to contain its livestock as long as the easement does not contain express language to the contrary. (*Van Klompenburg, supra*, 126 Cal.App.4th at p. 350.) Such is the case here.

### **El Dorado County Zoning Code**

El Dorado County's zoning code does not change or alter the background easement law discussed above, which supports fencing and gates necessary for AAE's agricultural uses. Section 130.30.090 does establish a design and administrative permit review procedure for the construction of a gate across certain private easements in El Dorado County. However, section 130.30.090 expressly exempts "gates serving *agricultural uses*" from its requirements, which is understandable for a predominately rural county such as El Dorado. (Emphasis added.) AAE's intent to graze cattle and horses upon the AAE Property, the purpose for which it constructed its fencing, is clearly an "agricultural use" as contemplated by the zoning code.

"Agriculture" is defined, not surprisingly, as the use of land for agricultural purposes, which includes pasturage. (§ 130.80.020.) And specific agricultural uses are provided for and broken down in the zoning code's land use discussion. Specifically, the AAE Property is currently zoned Residential Estate or RE-10, the allowable "uses" for which are established by zoning code Chapter 130.24. Among other uses, the RE zone expressly allows for "Agricultural uses" and gates supporting the same are exempt from the administrative permit processes. (§§ 130.24.010, subd. (C)(6); 130.30.090.) This allowance of agricultural uses is amplified by the Matrix of Allowed Uses in section 130.24.020. Pursuant to section 130.24.020, all agricultural uses are as-of-right uses in the RE zone with the exception of the commercial processing of agricultural products. These as-of-right agricultural "uses" provided for in the Matrix of Allowed Uses expressly include "Grazing." (§ 130.24.020.)

"Grazing" is an *agricultural use* type that is defined as the raising and feeding of domestic farm animals where the primary source of food is vegetation grown on site. (§130.80.020.) And, by definition, "domestic farm animals" include cattle and horses. (§130.80.020.) Therefore, AAE's intended use of its property for the *grazing* of cattle and horses is an *agricultural use* as expressly contemplated and allowed by the zoning code. Because section 130.30.090 exempts fences and gates serving "agricultural uses" from its design and permitting requirements, the fencing of the AAE Property for the purpose of containing and grazing livestock, including necessary gating, does not trigger the need for an administrative permit.

Again, grazing is an as-of-right use upon the AAE Property. But one cannot graze livestock upon a property without appropriate fencing, which includes access gates

where needed. The zoning code allows this agricultural use and expressly exempts those gates from the administrative permitting requirements of section 130.30.090. In contrast, grazing is not permitted in the RM, R1, or R20k zones and virtually all gates in those zones would likely require an administrative permit. This is understandable given the high-density nature of residential development in those zones. However, these concerns are not present for parcels zoned RE such as the AAE Property, which are intended to preserve the rural character of El Dorado County. (§ 130.24.010, subd. (C)(6).) In short, the design and permitting procedure of section 130.30.090 does not apply to AAE's fencing of its property and the Notice to Correct should be rescinded.

It has come to our attention that Planning may take the position that an administrative permit is required due to existing or potential residential uses on parcels neighboring the AAE Property. Such a position is not justified by the zoning code. Zoning code section 130.30.090 exempts gates serving agricultural uses from its requirements. Its language does not qualify that exemption if one or more neighboring properties is engaged in or intends to engage in a residential use in the future. The RE zone contemplates that residential uses will coexist with agricultural uses and that these uses are compatible with each other. Therefore, to the extent that the Notice to Correct is based upon an existing or possible future residential use on properties neighboring the AAE Property, that notice is not supported by legal authority. Again, the Notice to Correct should be rescinded immediately.

#### **Due Process Considerations**

Upon the request for a Notice of Compliance, the application is entitled to the issuance of such a notice or a written explanation as to why the request was denied. (§ 9.02.170, subd. (D).) In connection with such a denial, the applicant is also to be given a right to appeal the decision. AAE already requested an administrative hearing on this matter on May 13, 2020. However, our office was later notified that due to COVID-19 restrictions, such hearings are not being scheduled. Therefore, in the event of a Notice of Compliance not being issued, AAE's fundamental right to due process would prohibit the issuance of an administrative citation until a procedure becomes available that gives AAE a full opportunity to be heard on this matter.

Sincerely,

Thomas M. Swett, Esq.

cc: El Dorado County Counsel  
Client



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FIRST CLASS  
06230013209749  
FROM 95668

SACRAMENTO CA 957  
16 SEP 2020 PM 5 L

BURTON & SWEET  
47 Main Street  
Sutter Creek, California 95685

EL Dorado County Code Enforcement Unit  
2850 Fairlane Court  
Placerville, CA 95667

RECEIVED  
SEP 13 2020  
EL DORADO COUNTY  
PLANNING AND BUILDING DEPARTMENT

RECEIVED  
SEP 13 2020  
EL DORADO COUNTY  
PLANNING AND BUILDING DEPARTMENT

95667-41050

**BURTON & SWETT, P.C.**

A Professional Corporation

Attorneys

Rod W. Burton, Esq.  
Thomas M. Swett, Esq.

47 Main Street  
Sutter Creek, California 95685

tel. 209.267.8301  
fax. 209.992.4077

tom@burtonswett.com

September 16, 2020

**VIA FIRST CLASS & ELECTRONIC MAIL**

El Dorado County Code Enforcement Unit  
2850 Fairlane Court  
Placerville, California 95667  
cdacode.enforcement@edcgov.us

**Re: REQUEST FOR NOTICE OF COMPLIANCE (County Code § 9.02.170)  
Notice to Correct file no.: CE20-0198  
All About Equine Animal Rescue, Inc.; APN 07105156**

Dear Sir or Madame:

As you know, my office represents All About Equine Animal Rescue, Inc. ("AAE") with regard to El Dorado County Assessor's Parcel number 071-051-56-100 (the "AAE Property") and the above-referenced Notice to Correct dated May 1, 2020 and having file number CE20-0198 directed to AAE ("Notice to Correct"). With respect thereto, I previously requested a Notice of Compliance pursuant to El Dorado County Code section 9.02.170 by letter dated July 2, 2020. Within a reasonable time after making that request, pursuant to subdivision(D) of section 9.02.170, my client is entitled to the issuance of a Notice of Compliance or a written explanation as to why the request was denied.

Therefore, I am writing to you to confirm that you received my letter of July 2, 2020 and to inquire as to when we can expect a response from Code Enforcement. As of today, it has been 72 days since we requested a Notice of Compliance. The continued and prolonged existence of a Notice to Correct against the AAE Property is detrimental to my client's real property interests. Moreover, continued delay is prejudicial to my client's fundamental due process rights. As such, we are requesting that a response be forthcoming as soon as possible.

Sincerely,



Thomas M. Swett, Esq.

cc: El Dorado County Counsel  
Client

# EXHIBIT 6





04/30/2020 11:53 AM



04/30/2020 11:53 AM









# EXHIBIT 7

C. **Residential Subdivisions.** An Administrative Permit shall be required to establish gates across non-county maintained road(s) within a residential subdivision consisting of two or more lots, including condominium developments. An Administrative Permit to establish gates shall not be approved unless the Director finds all of the following:

1. The gate will not impede public access to a public resource, such as a public park, or interfere with existing or planned traffic circulation patterns; and
2. The project conforms to the standards of Subsection D (Design Standards for Gates Developments) below in this Section.

D. **Design Standards for Gated Developments.** The following standards shall be required in the design of gated developments. Deviation from these standards shall require a Conditional Use Permit in compliance with Section 130.52.021 (Conditional Use Permits) in Article 5 (Planning Permit Processing) of this Title, except where conditions are included in a development plan permit or other project conditions.

1. All Administrative Permits shall be subject to review by the Department of Transportation and the local fire district.
2. Design and location of gates shall be consistent with Title 12 (Streets, Sidewalks, and Public Places) of the County Code of Ordinances.
3. Road widths and gate openings shall conform to the minimum requirements of Title 14 Fire Safe Regulations.
4. At least one lane in each direction shall provide a minimum of 14 feet of unobstructed vertical clearance.
5. Gates shall be equipped with an emergency access lock system (approved by the fire department) that shall consist of a padlock in series on manual gates or a key switch on automatic gates. Automatic gates shall also be equipped with a receiver to allow remote activation by emergency vehicles to the satisfaction of the Sheriff's Department and the applicable fire department. Automatic gates shall be equipped with a mechanical release and a loop system to keep the gate open as long as traffic is passing through, and shall be designed to remain in the unlocked position during a power failure.
6. Gated entrances shall be designed in compliance with the Design and Improvement Standards Manual (DISM)/Land Development Manual (LDM), or successor document as to approach distance between the gate and the road in order to accommodate vehicular stacking, and between the gated entrance and the gate controller to allow vehicles to turn around within the driveway without backing onto the adjacent road.

7. Where entrance gates will create a dead-end road in excess of 150 feet in length, an area shall be provided along said road to allow fire trucks and equipment to turn around. The gradient of the road shall be level enough to allow for safe parking of the emergency vehicle when it is necessary to exit the vehicle for manual gate activation.
8. One pedestrian access shall be provided at each gated entrance to a residential or non-residential development. This requirement does not apply to a gate to a single family residence.
9. "Anti-directional" devices at gated entrances and exits, such as metal spikes that can cause tire damage, are prohibited.
10. Unless already provided for in the recorded Covenants, Conditions & Restrictions (CC&Rs) for the property or subdivision, a maintenance agreement shall be established and recorded for the gated development. The agreement shall identify, and at all times keep in effect, a legal entity responsible for maintaining the gates and associated features.

130.30.100 *Reserved*

# EXHIBIT 8



# PLANNING & BUILDING DEPARTMENT Code Enforcement Division

**PLACERVILLE OFFICE:**  
2850 Fairlane Court, Placerville, CA 95667  
**BUILDING**  
(530) 621-5315 / (530) 622-2705 Fax  
[biddept@edccov.us](mailto:biddept@edccov.us)  
**PLANNING**  
(530) 621-5355 / (530) 642-0508 Fax  
[planning@edccov.us](mailto:planning@edccov.us)

**CODE ENFORCEMENT**  
(530) 621-5999 / (530) 622-2921 Fax  
[cdacode.enforcement@edccov.us](mailto:cdacode.enforcement@edccov.us)

## Request for Administrative Hearing

Location of ~~Vacation Home Rental~~ APN 07105156

VHR Permit #                      Date of Occurrence 4/30/20 Investigation # CE20-0198

Name and address of  owner  agent  local contact  renter

Thomas Swett  
Burton Swett, PC  
47 Main St.  
Sutter Creek, CA 95685

Telephone 209.267.8301  
Telephone                       
E-mail tam@burtonswett.com  
Website                     

### TYPE OF VIOLATION(S)

- No Permit
- Written Agreement
- No Permit Conditions Posted
- Current Permit Not Posted in Rental
- No permit number in advertising
- Hot tub usage after 10pm and before 8am
- Garbage
- Permit Not Posted on or Adjacent to the Front Door
- Parking
- Noise
- Local Contact
- Other:

Reason for disagreement: Agricultural fencing exempt from gate permit requirements.

Please see Notice of Violations letter for Code Sections.

I disagree with these findings and request an Administrative Hearing before the Code Enforcement Hearing Officer. **I understand that I must pay any imposed fines and hearing fee with this request.** If the hearing officer rules the case in favor of the applicant, the fines will be refunded.

Signature of Applicant [Signature] Date 5/13/20

INTERNAL USE ONLY  
Date received:                      Received by:

# EXHIBIT 9



# PLANNING AND BUILDING DEPARTMENT

## CODE ENFORCEMENT DIVISION

[www.edcgov.us/Government/CodeEnforcement](http://www.edcgov.us/Government/CodeEnforcement)

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**PLACERVILLE OFFICE:**

2850 Fairlane Court, Placerville, CA 95667

**BUILDING**

(530) 621-5315 / (530) 622-1708 Fax

[blddept@edcgov.us](mailto:blddept@edcgov.us)

**PLANNING**

(530) 621-5355 / (530) 642-0508 Fax

[planning@edcgov.us](mailto:planning@edcgov.us)

**CODE ENFORCEMENT**

(530) 621-5999

[cdacode.enforcement@edcgov.us](mailto:cdacode.enforcement@edcgov.us)

May 20, 2020

To whom it may concern;

Due to unavoidable circumstances, it has become necessary to postpone any and all hearings and hearing request, including your request the following property;

APN: 071-051-56-100, CE20-0198

You may contact the Code Enforcement Unit at 530-621-5999 if you have any questions regarding this case.

Sincerely;

Johanna McGillivray

Code Enforcement Development Technician I

Code Enforcement Unit

# EXHIBIT 10





# Cash Register Receipt

County of El Dorado

**Receipt Number**  
**R24884**

DESCRIPTION	ACCOUNT	QTY	PAID
CodeTRAK			\$200.00
CE20-0198 Address: APN: 07105156			\$200.00
CODE ENFORCEMENT FEES			\$200.00
HEARING FEES	3750500 1942	0	\$200.00
<b>TOTAL FEES PAID BY RECEIPT:R24884</b>			<b>\$200.00</b>

Date Paid: Tuesday, September 01, 2020

Paid By: Burton Richards & Swett, P.C.

Cashier: JMS2

Pay Method: CHK-PLACERVILLE 1136