

# Crop Abatement

County Agricultural Commissioner Authority

November 10, 2015

# Food and Agricultural Code Sections 5401 – 5645

## ▶ *Public Nuisance*

- *“It is unlawful for any person to maintain any neglected or abandoned plant or crop which is a public nuisance.”*
- FAC Code 5401 – 5645 mandates agricultural commissioners with nuisance pest abatement.

# Public Nuisance

- ▶ *“Any neglected or abandoned plant or crop is a public nuisance in any of the following circumstances:*
  - *(a) It is a menace to the agriculture of the county, district or vicinity because of the existence of any pest, in or on it.*
  
  - (b) It is a menace to the agriculture of the county, district or vicinity because of the existence of any other condition than the condition described in (a).*
  
  - (c) It is a host plant of, or provides a favorable or likely harbor for, any pest.”*

# Abatement Procedures

- ▶ *“If the commissioner, finds, after inspection, that any premises, plant, conveyance, or thing in his jurisdiction is infected or infested with any pest, he may in writing notify the record owner or person in charge or possession of the premises, plant, conveyance, or thing, that is infected or infested with a pest.”*

# Abatement Procedures

- ▶ *“The notice required shall set forth all of the following:*
  - *A description of the property.*
  - *The name of the owner or person who is in charge or in possession of the property.*
  - *The fact that the commissioner’s findings have determined that the removal or destruction of the neglected or abandoned plant or crop provides the best means of eliminating the menace to the agriculture of the county.*
  - *That all costs incurred by the county in the detection of the nuisance and proceedings in the abatement of the nuisance shall be charged to the owner or established as a lien on the property.”*

# Abatement Procedures

- ▶ *“The commissioner, to his satisfaction, require the person to eradicate, destroy, or control, the pest within the time which is specified in the notice.”*
- ▶ *“If, after service of notice a public nuisance is not abated within the time which is specified in the notice, the commissioner shall abate the nuisance by eradicating, controlling, or destroying the pest.”*

# Abatement Procedures

- ▶ *“If the eradication, control or destruction of the pest is undertaken by the commissioner,...the expense of the abatement is a county charge.”*
- ▶ *“the amount which is incurred or expended by the county in the abatement is a lien on the land against which the expense is chargeable.”*

# Abatement Procedures

- ▶ *“the district attorney of the county which makes payment of the abatement expense, shall within 120 days after the notice is recorded, commence in the name and for the benefit of the county, an action to foreclose the lien.”*



# Thank You

## ▶ Questions?

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