

CITY OF MODESTO, CALIFORNIA

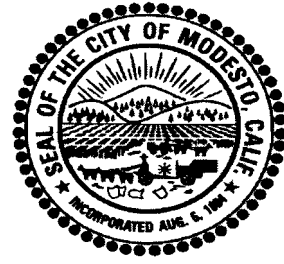
Community and Economic Development Department

Building Safety Division

P.O. Box 642

1010 Tenth Street, Suite 3100

Modesto, California 95353



Telephone: (209) 577-5232

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NOTICE OF PASSAGE OF RESOLUTION

AUGUST 15, 2014

**TO: ROBERTO M. GONZALEZ ET UX
1813 EVERGREEN AVENUE
MODESTO, CA 95350**

**CONCEPCION A. GONZALEZ
C/O ROBERT GONZALEZ
1813 EVERGREEN AVENUE
MODESTO, CA 95350**

VIA: CERTIFIED MAIL – RETURN RECEIPT REQUESTED

RE: THE FIRE-DAMAGED SINGLE-FAMILY DWELLING AND ATTACHED GARAGE WITH A FIRE-DAMAGED NON-OPERABLE VEHICLE PARKED ON THE DRIVEWAY, THE FIRE DEBRIS, PERSONAL ITEMS, AND JUNK STORED IN THE FRONT, REAR, AND SIDE YARDS LOCATED AT THE PROPERTY KNOWN AS 1813 EVERGREEN AVEUNE, MODESTO, CALIFORNIA; CITY OF MODESTO CODE ENFORCEMENT CASE NO. NPU2013-02555

PLEASE TAKE NOTICE that on August 14, 2014, the Board of Building Appeals of the City of Modesto conducted a special hearing regarding the real property situated in the City of Modesto commonly referred to as 1813 Evergreen Avenue (hereinafter referred to collectively as the “premises”). Following the public appeal hearing, the Board adopted Resolution No. 2014-07, a true and correct copy of which is attached to this Notice.

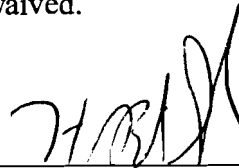
PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO RESOLUTION NO. 2014-07, THE BOARD OF BUILDING APPEALS AFFIRMS THE NOTICE AND ORDER DATED JULY 1, 2014, AND AFFIRMS THE PREVIOUS RESOLUTION NO. 2014-02; THE PREMISES HAS BEEN DECLARED A

PUBLIC NUISANCE, PURSUANT TO RESOLUTION NO. 2014-02, AND SAID NOTICE AND ORDER DATED JULY 1, 2014, THE BOARD HAS ORDERED THE CITY OF MODESTO TO ABATE SUCH NUISANCE BY BOARDING UP THE FIRE-DAMAGED SINGLE-FAMILY DWELLING PER THE CITY OF MODESTO BOARD UP SPECIFICATIONS; REMOVE ALL FIRE DEBRIS, FIRE-DAMAGED PERSONAL ITEMS STORED IN THE FRONT, REAR, AND SIDE YARDS AND DISCARD THEM IN AN APPROPRIATE MANNER IMMEDIATELY. THE BOARD ORDERS WITHIN THIRTY (30) CALENDAR DAYS OF THIS NOTICE OF PASSAGE OF RESOLUTION NO. 2014-07, THE CITY OF MODESTO IS ORDERED TO DEMOLISH THE REMAINING STRUCTURE INCLUDING THE REMOVAL OF THE CONCRETE AND FOUNDATION.

THE NUISANCE SHALL BE ABATED BY THE CITY OF MODESTO AND THE EXPENSE THEREOF MADE A LIEN ON THE LOT OR PARCEL LAND UPON WHICH SAID BUILDINGS ARE LOCATED.

PLEASE TAKE FURTHER NOTICE that the owners of the premises or any other interested person having any objections, or feeling aggrieved at any proceeding taken by the City of Modesto in ordering abatement of the nuisance, must bring an action in a court of competent jurisdiction within thirty (30) days after the date of posting on the premises the notice of passage of the resolution declaring the nuisance to exist to contest the validity of any proceedings leading up to and including the adoption of the resolution, otherwise all objections will be deemed to have been waived.

Dated: August 15, 2014



H. BRENT SINCLAIR
SECRETARY TO THE BOARD

HBS:cp
Attachment

cc: ROBERTO M. GONZALEZ ET UX
1813 EVERGREEN AVENUE
MODESTO, CA 95350

CONCEPCION A. GONZALEZ
C/O ROBERT GONZALEZ
1813 EVERGREEN AVENUE
MODESTO, CA 95350

City Attorney
H. Brent Sinclair, Acting Chief Building Official
Chris Kemper, Code Enforcement Officer II
Bert Lippert, Building Inspection Program Coordinator
File

BOARD OF BUILDING APPEALS
RESOLUTION NO. 2014-07

A RESOLUTION REAFFIRMING THE NOTICE AND ORDER DATED JULY 1, 2014, AND PRIOR RESOLUTION NO. 2014-02, DECLARING THE BUILDING LOCATED AT 1813 EVERGREEN AVENUE A PUBLIC NUISANCE AND DIRECTING THE CITY OF MODESTO TO ABATE THE NUISANCE WHICH CONSITUTES A FIRE HAZARD/DANGER TO CLEAN UP ALL DEBRIS, JUNK, AND GARBAGE IMEDIATELY AND WITHIN THIRTY (30) DAYS DEMOLITION OF THE REMAINING STRUCTURE INCLUDING THE CONCRETE AND FOUNDATION.

WHEREAS, Roberto Gonzalez has title to and is the recorded owner of property located at 1813 Evergreen Avenue in the City of Modesto, County of Stanislaus, hereinafter referred to collectively as the "premises;" and

WHEREAS, the premises at 1813 Evergreen Avenue consists of the fire-damaged single-family dwelling and attached garage with a fire-damaged non-operable vehicle parked on the driveway, the fire debris, personal items, and junk stored in the front, rear, and side yards.

WHEREAS, the Chief Building Official of the City of Modesto is authorized by the Building Maintenance Code of the City of Modesto to enforce all provisions of the Code including authority to inspect any building or structure and order that any such building or structure determined under the Building Maintenance Code to be Unsafe and Unfit for Human Occupancy be declared a public nuisance and order the recorded owner to abate the nuisance conditions by demolition of the unsafe structures and the removal of the junk, trash, debris and weeds on the property; and

WHEREAS, inspection of the premises was conducted by City of Modesto Building Safety Division personnel on June 17, 2014; and

WHEREAS, a Notice and Order dated July 1, 2014, was issued by the Acting Chief Building Official to contact the Building Safety Division of the City of Modesto and directed to abate such nuisance by: obtain the required permit from the City of Modesto Building Safety Division for the demolition of the unsafe, fire-damaged, squatter occupied single-family dwelling within thirty (30) calendar days of the date of this Notice and Order. You are also required to complete the demolition of this structure and obtain Building Safety approval within thirty (30) calendar days of the date of this Notice and Order. In addition, you shall remove all the debris remaining from the demolition of the garage and the fires, all personal items, tools, boat on trailer and junk being stored in the front, rear, and side yards within thirty (30) calendar days of the date of this Notice and Order. You shall trim/cut and remove all the overgrown landscape vegetation in the front, rear, and side yards within thirty (30) calendar days of the date of this Notice and Order; and

WHEREAS, said Notice and Order dated July 1, 2014, gave notice that the premises were found to be Unsafe, Unfit for Human Occupancy and a Public Nuisance; and

WHEREAS, on July 1, 2014, said Notice and Order of July 1, 2014, was mailed by certified mail, postage prepaid, return receipt requested to record owners and the holder of the deed of trust of record, pursuant to Article 12 of the Building Maintenance Code of the City of Modesto; and

WHEREAS, on July 1, 2014, said Notice and Order of July 1, 2014, was posted on the premises; and

WHEREAS, the owner(s) of said premises have failed to complete work within the time specified in said Notice and Order and, therefore, the owner(s) are now in violation of the Building Maintenance Code of the City of Modesto; and

WHEREAS, the property continues to deteriorate and constitutes a public nuisance; and

WHEREAS, pursuant to California Code of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1, Article 6, Section 66, thirty (30) days after the posting of copies of this resolution, the City of Modesto shall be deemed to have acquired jurisdiction to abate such nuisance by razing or removing the building unless the nuisance is abated by the owner or the person interested within the thirty (30) day period or any extension thereof granted by the Board of Building Appeals as provided in Article 12 of the Building Maintenance Code. In the event that the nuisance is not abated within the time prescribed, the City of Modesto may thereupon raze and remove the premises or have the same done under its direction and supervision; and

WHEREAS, on August 4, 2014, a "Notice to Abate Nuisance" was mailed by certified mail, postage prepaid, return receipt requested, to record owner(s) and posted on the property, pursuant to California Code of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1, Article 6, Sections 58 and 60; and

WHEREAS, said "Notice to Abate Nuisance" gave notice that a special hearing would be held by the Board of Building Appeals of the City of Modesto, on August 14, 2014, at 4:00 p.m., in the Second Floor Conference Room 2005 – Tenth Street Place, 1010 Tenth Street, Modesto, California; regarding the real property situated in the City of Modesto commonly referred to as 1813 Evergreen Avenue; and

WHEREAS, a duly noticed public hearing of the Board was held at date, time, and place as mentioned above, for the purpose to hear and receive evidence to determine whether said premises constitutes a public nuisance and to consider other appropriate action to abate such nuisance.

NOW, THEREFORE, BE IT RESOLVED by the Board of Building Appeals of the City of Modesto, that the following be ordered:

1. That the premises commonly referred to as 1813 Evergreen Avenue, hereinafter referred to collectively as the "premises," be hereby declared a public nuisance and the Board affirms the Notice and Order dated July 1, 2014, and the Passage of Resolution 2014-02 dated June 18, 2014.
2. That the City of Modesto are hereby directed and ordered to abate the nuisance by the demolition of the unsafe fire-damaged structure within thirty (30) days, and the City of Modesto will immediately complete the

removal of all fire debris, fire-damaged personal items, junk, non-operable vehicles, and personal items stored in the front, rear, and side yards and discard them in an appropriate manner the property, immediately within the posting of the notice of the passage of the resolution.

- a) Within thirty (30) days from the date of posting the Resolution the City of Modesto will demolish the remaining structure including the concrete and foundation.
3. The Board has ordered Civil Penalties to be determined by an Administrative Board.

BE IT FURTHER RESOLVED:

1. Thirty (30) days after the posting of copies of this resolution, the City of Modesto shall be deemed to have acquired jurisdiction to abate such nuisance by razing or removing the buildings, unless the nuisance is abated by the owner or other person within the thirty (30) day period or any extension thereof granted by the Board of Building Appeals. In the event that the nuisance is not abated within the time prescribed, the City of Modesto may thereupon raze and remove the building so declared to constitute a nuisance or have the same done under its direction and supervision.
2. In the event that the City of Modesto razes and removes the buildings so declared to constitute a nuisance or have the same done under its direction and supervision, the City of Modesto shall keep an itemized account of the expense involved in the razing or removing of any such buildings and shall deduct therefrom the amount received from the sale of any building materials pursuant to California Code of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1, Article 6, Section 68. The City of Modesto may proceed to recover its expenses in the razing or removing of any such buildings pursuant to California Code of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1, Article 6, Section 68 and Section 70.

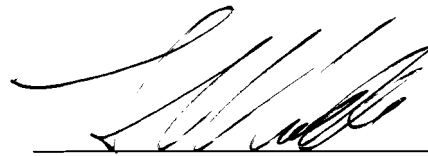
BE IT FURTHER RESOLVED that the City of Modesto shall cause to be posted on the premises a notice of the passage of this Resolution No. 2014-07, declaring a nuisance and directing abatement of the nuisance.

BE IT FURTHER RESOLVED that within sixty (60) days after passage of this Resolution No. 2014-07, declaring a nuisance and directing abatement of the nuisance, the City of Modesto shall cause to be posted a copy of said resolution conspicuously on the buildings so declared to be a nuisance and mail another copy of the resolution by certified mail, postage prepaid, return receipt requested, to (1) the person(s) owning the land on which the buildings are located as such person's name and address appear on the last equalized assessment roll, and (2) to each mortgagee or beneficiary under any deed of trust, of record, at the last known address of such mortgagee or beneficiary. The officer or employee giving notice as aforesaid, shall file an affidavit thereof in the manner provided for in California Code of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1, Article 6, Section 58.

The foregoing matter was introduced at a special appeal meeting of the Board of Building Appeals of the City of Modesto held on the 14th day of August 2014, by Board Member Ragsdale, who moved its adoption, which motion being duly seconded by Board Member Yoshino, was upon roll call carried in the resolution adopted by the following vote:

Ayes: Dalton, Ragsdale, Reid, Rodriguez, and Yoshino
Noes: None
Absent: None

BY ORDER OF THE BOARD OF BUILDING APPEALS OF THE CITY OF
MODESTO.



TIM RAGSDALE
BOARD OF BUILDING APPEALS

1 **PROOF OF SERVICE - CCP §1013(a)(3)**

2 I am employed in the County of Stanislaus, State of California. I am over the age of eighteen
3 years and not a party to the within entitled cause; my business address is: 1010 10th Street, Modesto,
4 California 95354.

5 On August 15, 2014 I served a copy of the NOTICE OF PASSAGE OF RESOLUTION for
6 1813 Evergreen Avenue, Modesto, California; Assessor's Parcel No. 060-038-078-000; on all parties
7 in said action by serving a true copy thereof as follows:

8 ROBERTO M. GONZALEZ ET UX
9 1813 EVERGREEN AVENUE
10 MODESTO, CA 95350

11 CONCEPCION A. GONZALEZ
12 C/O ROBERT GONZALEZ
13 1813 EVERGREEN AVENUE
14 MODESTO, CA 95350

15 X

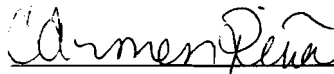
16 **BY MAIL:** I deposited the sealed envelope with the postage thereon fully prepaid to
17 be placed in the United States Mail at Modesto, California. I am readily familiar with
18 the office's practice for collection and processing of correspondence for mailing, and
19 pursuant to those practices the envelope would be deposited with the United States
20 Postal Service the same day.

21 X

22 **BY CERTIFIED MAIL:** I deposited the sealed envelope with the postage thereon
23 fully prepaid to be placed in the United States Mail at Modesto, California. I am
24 readily familiar with the office's practice for collection and processing of
25 correspondence for mailing, and pursuant to those practices the envelope would be
26 deposited with the United States Postal Service the same day.

27 **BY PERSONAL SERVICE:** I caused the within document to be hand delivered to
28 the parties herein at the addresses set forth above.

I declare under penalty of perjury under the laws of the State of California that the foregoing
is true and correct. Executed this 15th day of August 2014, at Modesto, California.



Carmen Piña
Administrative Office Assistant III