

**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

Facsimile: (209) 571-5135

TDD: (209) 526-9211



# **NOTICE OF PASSAGE OF RESOLUTION**

**SEPTEMBER 11, 2015**

**TO: SOCORRO GUTIERREZ  
P.O. BOX 1962  
CERES, CA 95307-8462**

**KHATRI BROS., A GENERAL PARTNERSHIP  
1608 SUNRISE AVENUE, SUITE 6  
MODESTO, CA 95350-4678**

**VIA: CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

**RE: THE PROPERTY WITH A PARTIALLY DEMOLISHED DUPLEX AND  
TWO SEPARATE DWELLING UNITS DESTROYED BY FIRE  
LOCATED AT 720, 722, 724, AND 724 1/2 2ND STREET, MODESTO,  
CALIFORNIA; CITY OF MODESTO CODE ENFORCEMENT  
CASE NO. COD2015-70074**

PLEASE TAKE NOTICE that on August 27, 2015, the Board of Building Appeals of the City of Modesto conducted a public hearing regarding the real property situated in the City of Modesto commonly referred to as 720, 722, 724, and 724 1/2 2<sup>nd</sup> Street (hereinafter referred to collectively as the “premises”). Following the public hearing, the Board adopted Resolution No. 2015-05, a true and correct copy of which is attached to this Notice.

**PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO RESOLUTION  
NO. 2015-05, THE PREMISES HAS BEEN DECLARED A PUBLIC NUISANCE  
AND THE OWNERS OF THE PREMISES ARE HEREBY ORDERED AND**

**DIRECTED TO ABATE SUCH NUISANCE BY COMPLETING ALL REQUIRED REPAIRS AND FINAL INSPECTION APPROVALS BY JANUARY 30, 2016.**

**SHOULD ANY OF THE ITEMS IN THE RESOLUTION NOT BE ADHERED TO A CIVIL PENALTY HEARING WILL BE SCHEDULED AND PENALTIES WILL BE RECOMMENDED AS PRESCRIBED IN THE NOTICE AND ORDER.**

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: September 11, 2015

  
\_\_\_\_\_  
OSCAR DIAZ,  
ACTING BOARD SECRETARY

WC:cp  
Attachment

cc: SOCORRO GUTIERREZ  
P.O. BOX 1962  
CERES, CA 95307-8462

KHATRI BROS., A GENERAL PARTNERSHIP  
1608 SUNRISE AVENUE, SUITE 6  
MODESTO, CA 95350-4678

City Attorney  
William Crew, Chief Building Official  
Bert Lippert, Building Inspection Program Coordinator  
Christopher Kemper, Acting Neighborhood Preservation Unit Supervisor  
Oscar Diaz, Plans Examiner  
File

BOARD OF BUILDING APPEALS  
RESOLUTION NO. 2015-05

A RESOLUTION DECLARING THE BUILDINGS LOCATED AT 720, 722, 724 AND 724 ½ 2<sup>ND</sup> STREET A PUBLIC NUISANCE AND DIRECTING THE OWNER(S) OF THE PROPERTY TO ABATE THE NUISANCE BY COMPLETING ALL REQUIRED REPAIRS AND INSPECTION APPROVALS BY JANUARY 30, 2016

WHEREAS, Socorro Gutierrez and Khatri Bros., A General Partnership have title to and are the recorded owners of the property located at 720, 722, 724, and 724 ½ 2<sup>nd</sup> Street in the City of Modesto, County of Stanislaus, hereinafter referred to collectively as the “premises;” and

WHEREAS, the premises at 720, 722, 724, and 724 1/2 2<sup>nd</sup> Street consists of the property with a partially demolished duplex and two separate dwelling units destroyed by fire; and

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 April 29, 2015, and June 9, 2015; and

WHEREAS, a Notice and Order dated July 7, 2015, was issued by the Chief Building Official to contact the Building Safety Division of the City of Modesto and ordered the following: You shall obtain a demolition permit from the Building Safety Division of the City of Modesto for the demolition of the duplex and two (2) fire-destroyed dwelling units within thirty (30) calendar days of the date of this Notice and Order and; If you want to bring these structures into compliance with the Modesto Municipal Code at this time, then you are required to return the enclosed Intent to Repair or Demolish Form to the Building Safety Division within seven (7) calendar days of the date of this Notice and Order and state your intent to repair the semi-demolished duplex and the fire-destroyed dwelling unit identified as 724 2<sup>nd</sup> Street, and to rebuild the fire-destroyed dwelling unit identified as 724 ½ 2<sup>nd</sup> Street. Along with the completed forms, please include a detailed schedule with dates for application and plan submittal, anticipated permit issuance, and start of construction; and progress dates for framing, drywall, and completion. These dates will be used to track progress and establish civil penalties, if necessary, as noted below. A complete set of plans prepared by a licensed architect, including an evaluation of the two (2) dwelling units by an engineer, are required before a building permit to rebuild or make the necessary repairs can be obtained. All required work shall be to the current California Building, Electrical, Mechanical and Plumbing Codes; and

WHEREAS, said Notice and Order dated July 7, 2015, gave notice that the premises were found to be Unsafe, Unfit for Human Occupancy and a Public Nuisance; and

WHEREAS, on July 7, 2015, said Notice and Order of July 7, 2015, 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 7, 2015, said Notice and Order of July 7, 2015, 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 17, 2015, 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 public hearing would be held by the Board of Building Appeals of the City of Modesto, on August 27, 2015, 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 720, 722, 724, and 724 ½ 2<sup>nd</sup> Street; 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. The Board affirms the Notice and Order dated July 7, 2015, to Socorro Gutierrez and Khatri Brothers, a General Partnership for the unsafe and nuisance conditions described in the Notice and Order; and
2. The Board confirms the Notice of Intent to Repair submitted for 724 ½ 2<sup>nd</sup> Street and the schedule shall be adhered to with the final inspection approval date of January 30, 2016; and

3. All repairs and inspections approved for 720, 722, 724, and 724 ½ 2<sup>nd</sup> Street are to be completed by January 30, 2016; and
4. Should any of the items in the resolution not be adhered to a civil penalty hearing will be scheduled and penalties will be recommended as prescribed in the Notice and Order.

BE IT FURTHER RESOLVED:

1. The Board has ordered all repairs and final inspection be completed by January 30, 2016, if all repairs and final inspection have not been completed 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 date of January 30, 2016, 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; and
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. 2015-05, declaring a nuisance and directing abatement of the nuisance.

BE IT FURTHER RESOLVED that within thirty (30) days after passage of this Resolution No. 2015-05, 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 the regular meeting of the Board of Building Appeals of the City of Modesto held on the 27th day of August 2015, by Board Member, Brad Wungluck who moved its adoption, which motion being duly seconded by Board Member, Richard Dalton was upon roll call carried in the resolution adopted by the following vote:

Ayes: Dalton, Rodriguez, Wungluck, and Yoshino, Unanimous, Reid, recused  
Noes: None  
Absent: None

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



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EVAN YOSHINO  
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 10<sup>th</sup> Street, Modesto,  
4 California 95354.

5 On August 17, 2015, I served a copy of the NOTICE OF PASSAGE OF RESOLUTION for  
6 720, 722, 724, AND 724 1/2 2<sup>ND</sup> Street, Modesto, California; Assessor's Parcel No. 103-020-013-  
000; on all parties in said action by serving a true copy thereof as follows:

7 SOCORRO GUTIERREZ  
8 P.O. BOX 1962  
9 CERES, CA 95307-8462

10 KHATRI BROS., A GENERAL PARTNERSHIP  
11 1608 SUNRISE AVENUE, SUITE 6  
12 MODESTO, CA 95350-4678

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

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

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

21 \_\_\_\_\_ **BY FACSIMILE:** I sent such document by way of facsimile to the offices of the  
22 addressee as indicated on the attached distribution list.

23 \_\_\_\_\_ **BY POSTING:** I posted such document on the front door/doors of the  
24 structure/structures of the address as indicated above.

25 I declare under penalty of perjury under the laws of the State of California that the foregoing  
26 is true and correct. Executed this 11<sup>th</sup> day of September, 2015 at Modesto, California.

27   
28 \_\_\_\_\_  
CARMEN PIÑA  
ADMINISTRATIVE OFFICE ASSISTANT III