

CITY OF MODESTO, CALIFORNIA

Community and Economic Development Department
Building Safety Division
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NOTICE OF PASSAGE OF RESOLUTION

FEBRUARY 10, 2017

**TO: RICARDO GARCIA
1305 CRATER AVENUE
MODESTO, CA 95351**

VIA: CERTIFIED MAIL – RETURN RECEIPT REQUESTED

**RE: THE CONSTRUCTION OF A NEW SINGLE-FAMILY DWELLING
WITHOUT THE REQUIRED PERMITS AND INSPECTIONS AT THE
PROPERTY KNOWN AS 1102 ALAMO AVENUE, MODESTO,
CALIFORNIA; CITY OF MODESTO CODE ENFORCEMENT
CASE NO. COD2015-70186**

PLEASE TAKE NOTICE that on January 26, 2017, 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 1102 Alamo Avenue (hereinafter referred to collectively as the “premises”). Following the public hearing, the Board adopted Resolution No. 2017-01, a true and correct copy of which is attached to this Notice.

**PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO RESOLUTION
NO. 2017-01, THE PREMISES HAS BEEN DECLARED A PUBLIC NUISANCE
AND THE OWNERS OF THE PREMISES ARE HEREBY ORDERED AND
DIRECTED TO ABATE SUCH NUISANCE BY DEMOLITION WITHIN
THIRTY (30) DAYS OF THE DATE THIS NOTICE IS POSTED ON THE
PREMISES.**

**IF THE NUISANCE IS NOT ABATED, THE CITY OF MODESTO SHALL
PROCEED WITH ABATEMENT 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: February 10, 2017



WILLIAM CREW
SECRETARY TO THE BOARD

WC:cp
Attachment

cc: RICARDO GARCIA
1305 CRATER AVENUE
MODESTO, CA 95351

City Attorney
William Crew, Chief Building Official
Bert Lippert, Building Safety Program Coordinator
Oscar Diaz, Building Safety Program Coordinator
Chris Kemper, Neighborhood Preservation Supervisor
File

BOARD OF BUILDING APPEALS
RESOLUTION NO. 2017-01

A RESOLUTION DECLARING THE BUILDING LOCATED AT 1102 ALAMO AVENUE A PUBLIC NUISANCE AND DIRECTING THE OWNER(S) OF THE PROPERTY TO ABATE THE NUISANCE WITHIN THIRTY (30) DAYS

WHEREAS, Ricardo Garcia has title to and is the recorded owner of property located at 1102 Alamo Avenue in the City of Modesto, County of Stanislaus, hereinafter referred to collectively as the “premises”; and

WHEREAS, the premises at 1102 Alamo Avenue consists of the construction of a new single-family dwelling without the required permits and inspections; 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 December 15, 2015; and

WHEREAS, a Notice and Order dated December 30, 2015, was issued by the Chief Building Official and the following ordered: Contact the Building Safety Division of the City of Modesto and IMMEDIATELY STOP ALL CONSTRUCTION WORK! Within seven (7) calendar days of the date of this Notice and Order contact William Crew, Chief Building Official of the City of Modesto, to schedule a meeting to discuss your options in continuing to build this single-family dwelling. Included in this meeting will be someone from the City’s Planning Division to discuss building setbacks and from Land Development Engineering to discuss abandonment of the septic tank and connection to the City sewer. For this meeting a plot plan drawn to scale which specifically shows the present location of the single-family dwelling and the side yard setback distance between it and the southern property line, location of the septic tank, leach field and City sewer stub out. Within seven (7) calendar days of the date of this Notice and Order, but following your appointment with Mr. Crew, provide a written statement using the enclosed Intent to Repair or Demolish Form declaring your intent to comply with this Notice and Order by obtaining the required building permits from the Building Safety Division of the City of Modesto for the demolition or construction of the single-family dwelling and connection to the City sewer. Along with the completed form, please include a detailed schedule with dates for application and plan submittal, anticipated permit issuance, 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. You will be required to provide four (4) complete set of plans prepared by a California State licensed professional designer, including an evaluation of this structure by an engineer with a plot plan which specifically shows the present side setback distance of the single-family dwelling from the property line before a building permit to construct a new single-family dwelling 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 December 30, 2015, gave notice that the premises were found to be Unsafe, Unfit for Human Occupancy and a Public Nuisance; and

WHEREAS, on December 30, 2015, said Notice and Order of December 30, 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 December 30, 2015, said Notice and Order of December 30, 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, an application for a variance from the provisions of Section (s) 10-4.102, Table 4.1-1 Residential Development Standards of the Modesto Municipal Code to allow a house to be located closer than the required five-foot yard setback on property located at 1102 Alamo Avenue, was filed by Eduardo Lemus on March 11, 2016; and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on April 28, 2016, in Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered.

WHEREAS, the variance was denied by The Board of Zoning Adjustment Resolution No. 2016-06.

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 January 13, 2017, 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 January 26, 2017, at 4:00 p.m., in the Second Floor Conference Room 2008 – Tenth Street Place, 1010 Tenth Street, Modesto, California; regarding the real property situated in the City of Modesto commonly referred to as 1102 Alamo 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 1102 Alamo Avenue, hereinafter referred to collectively as the “premises,” be hereby declared a Public nuisance.
2. The Board accepts City staff recommendation and affirms the Notice and Order dated December 30, 2015; and
3. Requires the owner to demolish the single-family dwelling within thirty (30) days of the Resolution or;
4. The City of Modesto will acquire jurisdiction and demolish the single-family dwelling and invoice the owner for all costs associated with the demolition of the subject property.

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. 2017-01, declaring a nuisance and directing abatement of the nuisance.

BE IT FURTHER RESOLVED that within thirty (30) days after passage of this Resolution No. 2017-01, declaring a nuisance and directing abatement of the nuisance,

Member, Richard Dalton, who moved its adoption, which motion being duly seconded by Board Member, Rick Reid, was upon roll call carried in the resolution adopted by the following vote:

Ayes: Dalton, Rodriguez, Yoshino, Wungluck, Reid
Noes: None.
Absent: None.

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



RICK REID
BOARD OF BUILDING APPEALS

