

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 12, 2017

**TO: LAND ONE PROPERTY LLC
PO BOX 700115
SAN JOSE, CA 95170**

VIA: CERTIFIED MAIL – RETURN RECEIPT REQUESTED

RE: THE LACK OF BUILDING MAINTENANCE TO THE EXTERIOR OF THE APARTMENT BUILDING IDENTIFIED AS 1001 7th STREET AND INSTALLATION OF PLUMBING, MECHANICAL, ELECTRICAL, AND FRAMING OF WALLS TO CREATE TWO (2) DWELLING UNITS NO. 4 AND 5 WITHOUT THE REQUIRED PERMITS AND INSPECTIONS FROM THE BUILDING SAFETY DIVISION OF THE CITY OF MODESTO LOCATED ON THE PROPERTY IDENTIFIED AS 1007 7TH STREET, MODESTO, CALIFORNIA; CITY OF MODESTO CODE ENFORCEMENT CASE NO. COD2017-90023

PLEASE TAKE NOTICE that on August 24, 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 1001 7th Street (hereinafter referred to collectively as the “premises”). Following the public hearing, the Board adopted Resolution No. 2017-08, a true and correct copy of which is attached to this Notice.

PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO RESOLUTION NO. 2017-08, THE PREMISES HAS BEEN DECLARED A PUBLIC NUISANCE; THE BOARD UPHOLDS THE NOTICE AND ORDER DATED MARCH 17, 2017; AND ACCEPTS THE ACCOUNT OF COST REPORT UNDER EXHIBIT B OF THE CIVIL PENALTY HEARING PACKET DATED AUGUST 24, 2017. THE BOARD AFFIRMS THE CIVIL PENALTIES INCLUDING THE HEARING

COST OF (\$9,662.22). THE BOARD GRANTS AN EXTENSION FOR THE PROPERTY OWNER TO COMPLETE WORK BY THE AGREED UPON SCHEDULE AND OBTAIN FINAL APPROVAL BY DECEMBER 1, 2017.

FURTHERMORE, IF ANY OF THE ITEMS IN THE MODIFIED NOTICE AND ORDER OF AUGUST 24, 2017, ARE NOT MET, INCLUDING THE CONSTRUCTION SCHEDULE DEADLINE OF DECEMBER 1, 2017, THE ORIGINAL NOTICE AND ORDER DATED MARCH 17, 2017, SHALL BE REINSTATED AND THE CASE WILL BE HEARD BEFORE THE NEXT SCHEDULED MEETING OF THE BOARD OF BUILDING APPEALS.

IF THE NUISANCE IS NOT ABATED, THE CITY OF MODESTO SHALL PROCEED WITH ADMINISTRATIVE 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: SEPTEMBER 12, 2017



THOMAS L. TRIMBERGER
SECRETARY TO THE BOARD

TLT:ml
Attachment

cc: LAND ONE PROPERTY LLC
PO BOX 700115
SAN JOSE, CA 95170

City Attorney
Thomas L. Trimberger, Chief Building Official
Chris Kemper, Neighborhood Preservation Supervisor
Bert Lippert, Building Safety Program Coordinator
Oscar Diaz, Building Safety Program Coordinator
File

BOARD OF BUILDING APPEALS
RESOLUTION NO. 2017-08

A RESOLUTION DECLARING THE BUILDING LOCATED AT 1001 7th STREET AVENUE A PUBLIC NUISANCE AND DIRECTING THE OWNER(S) OF THE PROPERTY TO ABATE THE NUISANCE AND DIRECTING THE OWNER(S) OF THE PROPERTY TO PAY CIVIL PENALTIES IN THE AMOUNT OF NINE THOUSAND ONE HUNDRED DOLLARS (\$9,100.00) AND HEARING COSTS OF FIVE HUNDRED SIXTY TWO DOLLARS AND TWENTY TWO-CENTS (\$562.22) FOR A TOTAL INVOICE AMOUNT OF NINE THOUSAND SIX HUNDRED SIXTY TWO DOLLARS AND TWENTY TWO-CENTS (\$9,662.22)

WHEREAS, Land One Property LLC has title to and is the recorded owner of property located at 1001 7th Street in the City of Modesto, County of Stanislaus, hereinafter referred to collectively as the "premises"; and

WHEREAS, the premises at 1001 7th Street consists of apartment building and installation of plumbing, mechanical, electrical, and framing of walls to create two (2) dwelling units no. 4 and no. 5 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 February 2, 2017; and

WHEREAS, a Notice and Order dated March 17, 2017, was issued by the Chief Building Official to contact the Building Safety Division of the City of Modesto and the following ordered: **NOTE: THE DWELLING UNITS NO. 4 AND 5 AND THE EXTERIOR CONDITION OF THE APARTMENT BUILDING IDENTIFIED AS 1001 7TH STREET HAVE BEEN DEEMED UNSAFE AND A PUBLIC NUISANCE BY THE BUILDING SAFETY DIVISION OF THE CITY OF MODESTO. IF YOU INTEND TO TAKE THE NECESSARY ACTIONS TO MAKE YOUR PROPERTY SAFE AND FIT FOR OCCUPANCY YOU HAVE ONLY TO DO THE FOLLOWING:**

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 FOR THE REPAIR OF THE UNSAFE CONDITIONS CAUSED BY THE EXTERIOR CONDITION OF THE APARTMENT BUILDING IDENTIFIED AS 1001 7TH STREET AND THE REPAIR OR CONVERSION OF DWELLING UNITS NO. 4 AND 5 BACK INTO ONE (1) DWELLING UNIT. 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 REPAIR OF THE UNSAFE CONDITIONS CAUSED BY THE EXTERIOR CONDITION OF THE APARTMENT BUILDING IDENTIFIED AS 1001 7TH STREET AND THE REPAIR OR CONVERSION OF DWELLING UNITS NO. 4 AND NO. 5 BACK INTO ONE (1) DWELLING UNIT. 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. ALL REQUIRED WORK SHALL BE TO THE CURRENT CALIFORNIA BUILDING, ELECTRICAL, MECHANICAL, AND PLUMBING CODES.

IF YOU CHOOSE NOT TO CONTACT WILLIAM CREW, CHIEF BUILDING OFFICIAL OF THE CITY OF MODESTO, THEN YOU ARE REQUIRED TO OBTAIN A BUILDING PERMIT FROM THE BUILDING SAFETY DIVISION OF THE CITY OF MODESTO FOR THE REPAIRS TO THE EXTERIOR OF THE APARTMENT BUILDING IDENTIFIED AS 1001 7TH STREET AND THE CONVERSION OF THE DWELLING UNITS IDENTIFIED AS NO. 4 AND NO. 5 BACK INTO ONE DWELLING UNIT WITHIN THIRTY (30) CALENDAR DAYS OF THE DATE OF THIS NOTICE AND ORDER. YOU SHALL PHYSICALLY COMMENCE THE REPAIRS TO THE EXTERIOR OF THE APARTMENT BUILDING IDENTIFIED AS 1001 7TH STREET AND THE CONVERSION OF DWELLING UNITS NO. 4 AND NO. 5 BACK INTO ONE (1) DWELLING UNIT WITHIN THIRTY (30) CALENDAR DAYS OF THE DATE OF THIS NOTICE AND ORDER, AND OBTAIN FINAL APPROVAL FROM THE BUILDING SAFETY DIVISION OF THE CITY OF MODESTO WITHIN SIXTY (60) CALENDAR DAYS OF THE DATE OF THIS NOTICE AND ORDER.

OR

IF YOU CHOOSE NOT TO CONTACT WILLIAM CREW, CHIEF BUILDING OFFICIAL OF THE CITY OF MODESTO, THEN YOU ARE REQUIRED TO OBTAIN A BUILDING PERMIT FROM THE BUILDING SAFETY DIVISION OF THE CITY OF MODESTO FOR THE REPAIRS TO THE EXTERIOR OF THE APARTMENT BUILDING IDENTIFIED AS 1001 7TH STREET AND THE DWELLING UNITS NO. 4 AND NO. 5 WITHIN THIRTY (30) CALENDAR DAYS OF THE DATE OF THIS NOTICE AND ORDER. YOU SHALL PHYSICALLY COMMENCE THE REPAIRS TO THE EXTERIOR OF THE APARTMENT BUILDING IDENTIFIED AS 1001 7TH STREET AND DWELLING UNITS NO. 4 AND NO. 5 WITHIN THIRTY (30) CALENDAR DAYS OF THE DATE OF THIS NOTICE AND ORDER, AND OBTAIN FINAL APPROVAL FROM THE BUILDING SAFETY DIVISION OF THE CITY OF MODESTO WITHIN SIXTY (60) CALENDAR DAYS OF THE DATE OF THIS NOTICE AND ORDER. ; and

WHEREAS, said Notice and Order dated March 17, 2017, gave notice that the premises were found to be Unsafe, Unfit for Human Occupancy and a Public Nuisance; and

WHEREAS, on March 17, 2017, said Notice and Order of March 17, 2017 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 March 17, 2017, said Notice and Order of March 17, 2017, 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 14, 2017, a "Notice of Board of Building Appeals Civil Penalty Hearing" 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 of Board of Building Appeals Civil Penalty Hearing" gave notice that a public hearing would be held by the Board of Building Appeals of the City of Modesto, on August 24, 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 1001 7th 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:

The premises has been declared a public nuisance; the Board upholds the Notice and Order dated March 17, 2017; and accepts the Account of Cost Report under Exhibit B of the civil penalty hearing packet dated August 24, 2017. The Board affirms the civil penalties including the hearing cost of (\$9,662.22). The Board grants an extension for

the property owner to complete work by the agreed upon schedule and obtain final approval by December 1, 2017.

FURTHERMORE, if any of the items in the modified Notice and Order of August 24, 2017, are not met, including the construction schedule deadline of final approval by December 1, 2017, the original Notice and Order dated March 17, 2017, shall be reinstated and the case will be heard before the next scheduled meeting of the Board of Building Appeals.

FURTHERMORE, if any of the items in the modified Notice and Order of March 17, 2017, are not met including the construction schedule deadline of final approval by December 1, 2017, the original Notice and Order dated March 17, 2017, shall be reinstated and the case will be heard before the next scheduled meeting of the Board of Building Appeals.

BE IT FURTHER RESOLVED:

1. Seventy-nine (79) 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 Seventy-nine (79) day period of 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. 2017-08, declaring a nuisance and directing abatement of the nuisance.

BE IT FURTHER RESOLVED that within thirty (30) days after passage of this Resolution No. 2017-08, 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 24th day of August 2017, by Board Member, Evan Yoshino, 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, Yoshino, Reid
Noes:	None
Absent:	Wungluck

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



RICK REID
BOARD OF BUILDING APPEALS

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PROOF OF SERVICE - CCP §1013(a)(3)

I am employed in the County of Stanislaus, State of California. I am over the age of eighteen years and not a party to the within entitled cause; my business address is: 1010 10th Street, Modesto, California 95353.

On September 12, 2017, I served a copy of the NOTICE OF PASSAGE OF RESOLUTION for 1001 7th Street, Modesto, California; Assessor's Parcel No.104-015-008 on all parties in said action by serving a true copy thereof as follows:


**TO: LAND ONE PROPERTY LLC
PO BOX 700115
SAN JOSE, CA 95170**

 X **BY MAIL:** I deposited the sealed envelope with the postage thereon fully prepaid to - 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.

 X **BY CERTIFIED MAIL:** I deposited the sealed envelope with the postage thereon fully prepaid to be placed in the United States Mail at Modesto, California. I am readily familiar with 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.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12th day of September 2017, at Modesto, California.



Michelle Luevano, Administrative Office Assistant II

Case No. COD2017-90023