

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

FEBRUARY 6, 2018

**TO: GUY MULLINS III
1101 ALAMO AVENUE
MODESTO, CA 95351**

VIA: CERTIFIED MAIL – RETURN RECEIPT REQUESTED

**RE: THE OPEN AND UNSECURED SINGLE-FAMILY DWELLING
DESTROYED BY FIRE ON THE PROPERTY KNOWN AS 1101 ALAMO
AVENUE, MODESTO, CALIFORNIA; CITY OF MODESTO CODE
ENFORCEMENT CASE NO. COD2017-90141**

PLEASE TAKE NOTICE that on January 25, 2018, the Board of Building Appeals of the City of Modesto conducted a public hearing for an update from the October 26, 2017, meeting of the Board of Building Appeals regarding the real property situated in the City of Modesto commonly referred to as 1101 Alamo Avenue (hereinafter referred to collectively as the “premises”). Following the public hearing, the Board adopted Resolution No. 2018-01, a true and correct copy of which is attached to this Notice.


PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO RESOLUTION NO. 2018-01, THE BOARD UPHOLDS THE NOTICE AND ORDER ISSUED BY THE CHIEF BUILDING OFFICIAL ON SEPTEMBER 20, 2017; THE PREMISES HAS BEEN DECLARED A PUBLIC NUISANCE; AND THE OWNERS OF THE PREMISES ARE HEREBY ORDERED TO ABATE SUCH NUISANCE AS DIRECTED IN THE NOTICE AND ORDER DATED SEPTEMBER 20, 2017. WITHIN THIRTY (30) DAYS OF THE DATE THIS NOTICE IS POSTED ON THE PREMISES.

THE BOARD ORDERS THE OWNER OF THE PREMISES TO OBTAIN THE REQUIRED PERMITS, COMPLETE THE DEMOLITION AND CLEAN-UP, AND RECEIVE FINAL INSPECTION FROM THE CITY OF MODESTO BUILDING SAFETY DIVISION BY THE FEBRUARY 22, 2018, HEARING. CONTINGENT UPON THIS, THE BOARD STAYS THE CIVIL PENALTIES AS OUTLINED IN THE NOTICE AND ORDER DATED SEPTEMBER 20, 2017, AND PREVIOUSLY ACCEPTED IN THE ACCOUNT OF COST REPORT UNDER EXHIBIT B OF THE OCTOBER 26, 2017, CIVIL PENALTY HEARING PACKET IN THE AMOUNT OF \$3,348.06. CIVIL PENALTIES IN THE AMOUNT OF ONE HUNDRED DOLLARS (\$100.00) PER DAY WILL CONTINUE TO ACCRUE UNTIL THE PROPERTY IS BROUGHT INTO COMPLIANCE AS ORDERED IN THE NOTICE AND ORDER DATED SEPTEMBER 20, 2017.

IF THE NUISANCE IS NOT ABATED, THE CITY OF MODESTO WILL PROCEED WITH AN 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: February 6, 2018



THOMAS L. TRIMBERGER
SECRETARY TO THE BOARD

TLT:ml
Attachment

cc: GUY MULLINS III
1101 ALAMO AVENUE
MODESTO, CA 95351

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

BOARD OF BUILDING APPEALS
RESOLUTION NO. 2018-01

A RESOLUTION DECLARING THE BUILDING LOCATED AT
1101 ALAMO AVENUE A PUBLIC NUISANCE AND DIRECTING THE
OWNER(S) OF THE PROPERTY TO ABATE THE NUISANCE WITHIN
THIRTY (30) DAYS

WHEREAS, Guy Mullins III, has title to and is the recorded owner of property located at 1101 Alamo Avenue in the City of Modesto, County of Stanislaus, hereinafter referred to collectively as the “premises”; and

WHEREAS, the premises at 1101 Alamo Avenue consists of an open and unsecured single-family dwelling 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 September 15, 2017; and

WHEREAS, a Notice and Order dated September 20, 2017, was issued by the Chief Building Official to contact the Building Safety Division of the City of Modesto and the following ordered:

You shall obtain a demolition permit from the Building Safety Division of the City of Modesto for the demolition of the single-family dwelling destroyed by fire and physically commence the demolition of the single-family dwelling within thirty (30) calendar days of the date of this Notice and Order.

OR

If you intend to bring the single-family dwelling destroyed by fire into compliance with the Modesto Municipal Code, you are required within seven (7) calendar days of the date of this Notice and Order to contact Thomas L. Trimmerger, Chief Building Official of the City of Modesto, to schedule a meeting to state your intent to repair or demolish this single-family dwelling. At this meeting you will need to 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 rebuilding of the fire-destroyed single-family dwelling. 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) set of floor plans prepared by a

California State licensed professional designer, with a plot plan which specifically shows the present side setback distance of the single-family dwelling and off-street parking from the property line before a building permit to rebuild the single-family dwelling can be obtained. All required work shall be to the current California Building, Electrical, Mechanical and Plumbing Codes.

If you intend to do the above you are required to do the following within thirty (30) calendar days of the date of this Notice and Order:

Secure all points of entry or any open access point to prevent unauthorized entry into the partially demolished structure per the enclosed City of Modesto Board Up Specifications; and

WHEREAS, said Notice and Order dated September 20, 2017, gave notice that the premises were found to be Unsafe, Unfit for Human Occupancy and a Public Nuisance; and

WHEREAS, on September 20, 2017, said Notice and Order of September 20, 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 September 20, 2017, said Notice and Order of September 20, 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 October 16, 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 October 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 1101 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.

WHEREAS, on January 12, 2018, 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 January 25, 2018, 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 1101 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. The Board upholds the Notice and Order issued by the chief building official on September 20, 2017; The premises has been declared a public nuisance; and the owners of the premises are hereby ordered to abate such nuisance as directed in the Notice and Order dated September 20, 2017, within thirty (30) days or by the February hearing of the Board of Building Appeals.
2. The Board orders the owner of the premises to obtain the required permits, complete the demolition and clean-up, and receive final inspection from the City of Modesto Building Safety Division by the February 22, 2018, hearing. Contingent upon this, the Board stays the civil penalties as outlined in the Notice and Order dated September 20, 2017, and previously accepted in the Account of Cost Report under Exhibit B of the October 26, 2017, civil penalty hearing packet in the amount of \$3,348.06. Civil penalties in the amount of One Hundred Dollars (\$100.00) per day will continue to accrue until the property is brought into compliance as ordered in the Notice and Order dated September 20, 2017.

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. 2018-01, declaring a nuisance and directing abatement of the nuisance.

BE IT FURTHER RESOLVED that within thirty (30) days after passage of this Resolution No. 2018-01, 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 25th day of January 2018, by Board Member, Evan Yoshino, who moved its adoption, which motion being duly seconded by Board Member, Rich Reid, was upon roll call carried in the resolution adopted by the following vote:

Ayes:	Dalton, 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



INVOICE

CITY OF MODESTO
COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT
BUILDING SAFETY & NEIGHBORHOOD PRESERVATION DIVISION
1010 Tenth Street, Suite 3100 • Modesto, CA • 95358
Mailing Address: P.O. Box 3441 • Modesto, CA • 95353
209.577.5232 / fax 209.571.5135

TO: GUY MULLINS III
1101 ALAMO AVENUE
MODESTO, CA 95351

INVOICE NO: 89048
DATE: 2/06/18

CUSTOMER NO: 56569/56569

TYPE: NP - NEIGHBORHD PRESERVATN

QUANTITY	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
1.00	ADMINISTRATIVE COSTS 10/26/17 BBA CIVIL PENALTY HEARING - 1101 ALAMO AVE CODE ENFORCEMENT CASE NO. COD2017-90141	448.06	448.06

**AS OF 9/1/17, PAYMENTS BY DEBIT/CREDIT CARD WILL
BE CHARGED A 2.4% SERVICE FEE FOR ALL TRANSACTIONS**

TOTAL DUE: \$448.06

PLEASE DETACH AND SEND THIS COPY WITH REMITTANCE

DATE: 2/06/18 DUE DATE: 2/16/18
CUSTOMER NO: 56569/56569

NAME: MULLINS III, GUY
TYPE: NP - NEIGHBORHD PRESERVATN

REMIT AND MAKE CHECK PAYABLE TO:
CITY OF MODESTO
PO BOX 3441
1010 TENTH STREET
MODESTO CA 95353

INVOICE NO: 89048
TERMS: NET 10 DAYS

AMOUNT: \$448.06

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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 February 6, 2018, I served a copy of the NOTICE OF PASSAGE OF RESOLUTION for 1101 Alamo Avenue, Modesto, California, Assessor's Parcel No. 038-036-016 on all parties in said action by serving a true copy thereof as follows:

**TO: GUY MULLINS III
1101 ALAMO AVENUE
MODESTO, CA 95351**

 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 6^h day of February, 2018, at Modesto, California.

Case # COD2017-90141



Michelle Luevano, Administrative Office Assistant II

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

2
3 I am employed in the County of Stanislaus, State of California. I am over the age of eighteen
4 years and not a party to the within entitled cause; my business address is: 1010 10th Street, Modesto,
California 95353.

5 On February 6, 2018, I served a copy of the NOTICE OF PASSAGE OF RESOLUTION for
6 1101 Alamo Avenue, Modesto, California, Assessor's Parcel No. 038-036-016 on all parties in said
action by serving a true copy thereof as follows:

7 **TO: GUY MULLINS III**
8 **1101 ALAMO AVENUE**
9 **MODESTO, CA 95351**

10 _____ **BY MAIL:** I deposited the sealed envelope with the postage thereon fully prepaid to -
11 the office's practice for collection and processing of correspondence for mailing, and
12 pursuant to those practices the envelope would be deposited with the United States
Postal Service the same day.

13 _____ **BY CERTIFIED MAIL:** I deposited the sealed envelope with the postage thereon
14 fully prepaid to be placed in the United States Mail at Modesto, California. I am
15 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.


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

18 X _____ **BY POSTING:** I posted such document on the front door the structure/structures of
the address as indicated above.

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

21 I declare under penalty of perjury under the laws of the State of California that the foregoing
22 is true and correct. Executed this 6th day of February, 2018, at Modesto, California.

23
24 **Case # COD2017-90141**

25 
26 _____
Christopher S. Kemper
27 Neighborhood Preservation Supervisor
28