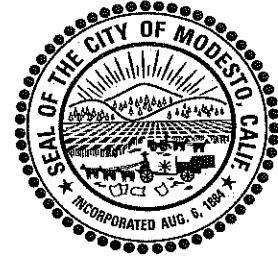


CITY OF MODESTO, CALIFORNIA

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: PEDRO AGUILERA
1900 RICKY AVENUE
MODESTO, CA 95350**

**WORLD SAVINGS BANK, FSB
1901 HARRISON STREET
OAKLAND, CA 94612**

VIA: CERTIFIED MAIL – RETURN RECEIPT REQUESTED

**RE: THE CONVERSION OF THE ATTACHED TWO-CAR GARAGE INTO A
HABITABLE LIVING SPACE OR SECOND DWELLING UNIT
WITHOUT APPROVAL FROM THE CITY OF MODESTO PLANNING
DIVISION AND REQUIRED PERMITS FROM THE BUILDING SAFETY
DIVISION ON THE PROPERTY LOCATED AT 1900 RICKY AVENUE,
MODESTO, CALIFORNIA; CODE ENFORCEMENT CASE
NO. COD2016-80146**

PLEASE TAKE NOTICE that on January 25, 2018, 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 1900 Ricky Avenue (hereinafter referred to collectively as the “premises”). Following the public hearing, the Board adopted Resolution No. 2018-04, a true and correct copy of which is attached to this Notice.

**PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO RESOLUTION
NO. 2018-04, THE BOARD UPHOLDS THE NOTICE AND ORDER ISSUED BY
THE CHIEF BUILDING OFFICIAL ON DECEMBER 29, 2016; 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 DECEMBER 29, 2016, WITHIN THIRTY (30) DAYS OF THE DATE THIS NOTICE IS POSTED ON THE PREMISES.

THE BOARD AFFIRMS CIVIL PENALTIES OF THIRTY SIX THOUSAND EIGHT HUNDRED SEVENTEEN DOLLARS AND THIRTEEN CENTS (\$36,817.13) AS ACCEPTED IN THE ACCOUNT OF COST REPORT UNDER EXHIBIT B OF THE CIVIL PENALTY HEARING PACKET. 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 DECEMBER 29, 2016.

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 Resolution and Order Directing Abatement of Nuisance 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: PEDRO AGUILERA
1900 RICKY AVENUE
MODESTO, CA 95350

WORLD SAVINGS BANK, FSB
1901 HARRISON STREET
OAKLAND, CA 94612

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. 2018-04

A RESOLUTION DECLARING THE BUILDING LOCATED AT 1900 RICKY AVENUE A PUBLIC NUISANCE AND DIRECTING THE OWNER(S) OF THE PROPERTY TO ABATE THE NUISANCE WITHIN THIRTY (30) DAYS

WHEREAS, Pedro Aguilera has title to and is the recorded owner of property located at 1900 Ricky Avenue in the City of Modesto, County of Stanislaus, hereinafter referred to collectively as the “premises;” and

WHEREAS, the premises at 1900 Ricky Avenue consists of a conversion of the attached two-car garage into a habitable living space or second dwelling unit without approval from the City of Modesto Planning Division and required permits from the Building Safety Division; 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, a Notice and Order dated December 29, 2016, was issued by the Chief Building Official to contact the Building Safety Division of the City of Modesto and the following ordered:

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 already converted structure. 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 conversion of the attached garage into a habitable living space or a second 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. 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 before a building permit to convert the detached structure into a second dwelling unit can be obtained. All required work shall be to the current California Building, Electrical, Mechanical, and Plumbing Codes.

WHEREAS, said Notice and Order dated December 29, 2016, gave notice that the premises were found to be Unsafe, Unfit for Human Occupancy and a Public Nuisance; and

WHEREAS, on December 29, 2016, said Notice and Order of December 29, 2016, 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 29, 2016, said Notice and Order of December 29, 2016, 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 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 1900 Ricky 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 December 29, 2016; the premises has been declared a public nuisance; and the owners of the premises are hereby ordered to abate such nuisance as ordered in the Notice and Order dated December 29, 2016:

2. The board affirms civil penalties of Thirty Six Thousand Eight Hundred Seventeen Dollars and Thirteen Cents (\$36,817.13) as accepted in the Account Of Cost Report under Exhibit B of the civil penalty hearing packet. 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 December 29, 2016.

IF THE NUISANCE IS NOT ABATED WITHIN THIRTY (30) DAYS OF THE DATE THIS NOTICE IS POSTED ON THE PREMISES THE CITY OF MODESTO SHALL PROCEED WITH AN ADMINISTRATIVE ABATEMENT AND THE EXPENSE THEREOF MADE A LIEN ON THE LOT OR PARCEL LAND UPON WHICH SAID BUILDINGS ARE LOCATED.

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. 2018-04, declaring a nuisance and directing abatement of the nuisance.

BE IT FURTHER RESOLVED that within thirty (30) days after passage of this Resolution No. 2018-04, 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, Rick Reid, 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, 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: PEDRO AGUILERA
1900 RICKY AVENUE
MODESTO, CA 95350

INVOICE NO: 89044
DATE: 2/06/18

CUSTOMER NO: 56561/56561

TYPE: NP - NEIGHBORHD PRESERVATN

QUANTITY	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
1.00	ADMINISTRATIVE COSTS 01/25/18 BBA CIVIL PENALTY HEARING - 1900 RICKY AVENUE CODE ENFORCEMENT CASE NO. COD2016-80146	717.13	717.13
1.00	CIVIL PENALTIES 361 DAYS @ \$100 PER DAY - 1/29/17 THROUGH 1/25/18 CODE ENFORCEMENT CASE NO. COD2016-80146	36,100.00	36,100.00

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

TOTAL DUE: \$36,817.13

PLEASE DETACH AND SEND THIS COPY WITH REMITTANCE

DATE: 2/06/18 DUE DATE: 2/16/18
CUSTOMER NO: 56561/56561

NAME: AGUILERA, PEDRO
TYPE: NP - NEIGHBORHD PRESERVATN

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

INVOICE NO: 89044
TERMS: NET 10 DAYS

AMOUNT: \$36,817.13

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 95353.

5 On February 6, 2018, I served a copy of the NOTICE OF PASSAGE OF RESOLUTION for
6 1900 Ricky Avenue, Modesto, California, Assessor's Parcel No. 060-037-076 on all parties in said
7 action by serving a true copy thereof as follows:

8 **TO: PEDRO AGUILERA**
9 **1900 RICKY AVENUE**
10 **MODESTO, CA 95350**

11 **WORLD SAVINGS BANK, FSB**
12 **1901 HARRISON STREET**
13 **OAKLAND, CA 94612**

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

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

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

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

27 **Case # COD2016-80146**

28 
Michelle Luevano, Administrative Office Assistant II

