

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 5, 2019

**TO: SUWONNEE PONGNORSING
307 PAULINE AVENUE
MODESTO, CA 95358**

VIA: CERTIFIED MAIL – RETURN RECEIPT REQUESTED

RE: THE USE OF A COMMERICAL BUILDING AS A HABITABLE LIVING SPACE WITHOUT THE REQUIRED PERMITS AND APPROVAL FROM THE BUILDING SAFETY DIVISION OF THE CITY OF MODESTO ON THE PROPERTY LOCATED AT 300 I STREET, MODESTO, CALIFORNIA; CODE ENFORCEMENT CASE NO. COD2018-40144

PLEASE TAKE NOTICE that on January 24, 2019, 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 300 I Street (hereinafter referred to collectively as the “premises”). Following the public hearing, the Board adopted Resolution No. 2019-04, a true and correct copy of which is attached to this Notice.

THE BOARD AFFIRMS THE PROPERTY AS UNSAFE AND A PUBLIC NUISANCE; THE BOARD AFFIRMS THE NOTICE AND ORDER DATED OCTOBER 4, 2018; THE BOARD AFFIRMS THE CIVIL PENALTIES IN THE AMOUNT OF ONE THOUSAND TWO HUNDRED DOLLARS (\$1,200) AS ORDERED IN THE NOTICE IN ORDER AND HEARING COSTS IN THE AMOUNT OF NINE HUNDRED FIVE DOLLARS AND FIFTY-THREE CENTS (\$905.53) TO BE HELD IN ABEYANCE PENDING A FINAL ON FEBRUARY 12, 2019; AFFIRMS THAT THE NUISANCE WAS NOT ABATED BY THE DATE AS ORDERED IN THE NOTICE AND ORDER ISSUED BY THE CITY OF MODESTO ON OCTOBER 4, 2018. IF THE NUISANCE IS NOT ABATED BY FEBRUARY 12, 2019, THE CITY OF MODESTO WILL PROCEED WITH ADMINSTRATIVE ABATEMENT AND THE EXPENSE

THEREOF MADE A PERSONAL LIEN AGAINST THE OWNER AT THE TIME THE NOTICE AND ORDER WAS ISSUED ON OCTOBER 4, 2018.

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 5, 2019



OSCAR DIAZ
SECRETARY TO THE BOARD

OD:cp
Attachment

cc: SUWONNEE PONGNORSING
307 PAULINE AVENUE
MODESTO, CA 95358

City Attorney
Oscar Diaz, Chief Building Official
Bert Lippert, Building Inspection Program Coordinator
File

BOARD OF BUILDING APPEALS
RESOLUTION NO. 2019-04

A RESOLUTION DECLARING THE BUILDING LOCATED AT
300 I STREET A PUBLIC NUISANCE AND DIRECTING THE OWNER(S) OF
THE PROPERTY TO ABATE THE NUISANCE

WHEREAS, Suwonnee Pongnorsing has title to and is the recorded owner of property located at 300 I Street in the City of Modesto, County of Stanislaus, hereinafter referred to collectively as the "premises"; and

WHEREAS, the premises at 300 I Street consists of the commercial property 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 **NOTE: THIS PROPERTY AND STRUCTURE HAVE BEEN DEEMED UNSAFE AND UNFIT FOR OCCUPANCY 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 Oscar Diaz, Chief Building Official of the City of Modesto, to schedule a meeting to discuss your options to convert this commercial building into a habitual living space. Within seven (7) calendar days of the date of this Notice and Order, but following your appointment with Mr. Diaz, 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 commercial building into a habitable living space. 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 a plot plan before a building permit to convert the commercial building into habitable living space can be obtained. All required work shall be to the current California Building, Electrical, Mechanical, and Plumbing Codes.

YOU ARE FURTHER NOTIFIED that, if any work which is required in order to satisfy this Order has not been completed within the time specified above, the Building Safety Division of the City of Modesto may proceed to cause the property to be secured and all violations abated by City personnel or a private contractor. When the abatement is completed, a report describing the work performed and an itemized account of the total abatement costs shall be prepared by the Building Safety Division. The Building Safety Division shall schedule a confirmation of costs hearing before an Administrative Hearing Officer or the Board of Building Appeals unless waived in writing by all responsible parties. All administrative and actual costs incurred by the City in abating the violations may be assessed and recovered against the responsible party pursuant to the provisions set forth in Sections 1-6.303 and 1-6.701 of the Modesto Municipal Code; and

WHEREAS, said Notice and Order dated October 4, 2018, gave notice that the premises were found to be Unsafe, Unfit for Human Occupancy and a Public Nuisance; and

WHEREAS, on October 4, 2018, said Notice and Order of October 4, 2018, 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 October 4, 2018, said Notice and Order of October 4, 2018, 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 14, 2019, a "Notice of 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 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 24, 2019, 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 300 I 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 BOARD AFFIRMS THE PROPERTY AS UNSAFE AND A PUBLIC NUISANCE; THE BOARD AFFIRMS THE NOTICE AND ORDER DATED OCTOBER 4, 2018; THE BOARD AFFIRMS THE CIVIL PENALTIES IN THE AMOUNT OF ONE THOUSAND TWO HUNDRED DOLLARS (\$1,200) AS ORDERED IN THE NOTICE IN ORDER AND HEARING COSTS IN THE AMOUNT OF NINE HUNDRED FIVE DOLLARS AND FIFTY-THREE CENTS (\$905.53) TO BE HELD IN ABEYANCE PENDING A FINAL ON FEBRUARY 12, 2019; AFFIRMS THAT THE NUISANCE WAS NOT ABATED BY THE DATE AS ORDERED IN THE NOTICE AND ORDER ISSUED BY THE CITY OF MODESTO ON OCTOBER 4, 2018. IF THE NUISANCE IS NOT ABATED BY FEBRUARY 12, 2019, THE CITY OF MODESTO WILL PROCEED WITH ADMINISTRATIVE ABATEMENT AND THE EXPENSE THEREOF MADE A PERSONAL LIEN AGAINST THE OWNER AT THE TIME THE NOTICE AND ORDER WAS ISSUED ON OCTOBER 4, 2018.

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. 2019-04, declaring a nuisance and directing abatement of the nuisance.

BE IT FURTHER RESOLVED that within thirty (30) days after passage of this Resolution No. 2019-04, 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 24th day of January 2019, 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:	Bergman, Dalton, Yoshino, Reid
Noes:	None
Absent:	Wungluck

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

(RESOLUTION NO. 2019-04)



RICK REID
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 10th Street, Modesto,
4 California 95354.

5 On February 5, 2019, I served a copy of the NOTICE F PASSAGE OF RESOLUTION for
6 300 I Street Modesto, California; Assessor's Parcel No. 104-024-015 on all parties in said action by
7 serving a true copy thereof as follows:

8 SUWONNEE PONGNORSING
9 307 PAULINE AVENUE
10 MODESTO, CA 95358

11 X

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

17 X

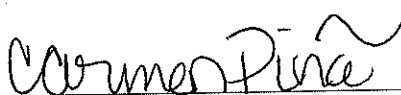
18 **BY CERTIFIED MAIL:** I deposited the sealed envelope with the postage thereon
19 fully prepaid to be placed in the United States Mail at Modesto, California. I am
20 readily familiar with the office's practice for collection and processing of
21 correspondence for mailing, and pursuant to those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

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

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

27 **BY POSTING:** I posted such document on the property of the address as indicated
28 above.

I declare under penalty of perjury under the laws of the State of California that the foregoing
is true and correct. Executed this 5th day of February 2019, at Modesto, California.



CARMEN PIÑA
ADMINISTRATIVE OFFICE ASSISTANT III