

**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**

**JANUARY 29, 2015**

**TO: KEVIN P. NIM  
DALINA K. EANG  
2009 ST SEBASTIAN WAY  
MODESTO, CA 95358-7121**

**KEVIN P. NIM  
DALINA K. EANG  
2322 RENFIELD WAY  
SAN JOSE, CA 95148-4037**

**WELLS FARGO BANK, N.A.  
P.O. BOX 11701  
NEWARK, NJ 07101-4701**

**VIA: CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

**RE: THE OPEN AND UNSECURED PARTIALLY DEMOLISHED TWO-  
STORY SINGLE-FAMILY DWELLING DESTROYED BY FIRE WITH  
ATTACHED THREE (3) CAR GARAGE LOCATED AT 4104 LAMARCK  
AVENUE, MODESTO, CALIFORNIA; CITY OF MODESTO CODE  
ENFORCEMENT CASE NO. COD2014-60184**

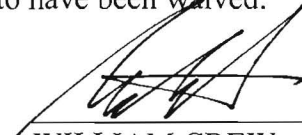
PLEASE TAKE NOTICE that on January 22, 2015, the Board of Building Appeals of the City of Modesto conducted a public hearing regarding the real property situated in the City of Modesto commonly referred to as 4104 Lamarck Avenue (hereinafter referred to collectively as the “premises”). Following the public hearing, the Board adopted Resolution No. 2015-01, a true and correct copy of which is attached to this Notice.

**PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO RESOLUTION NO. 2015-01, THE PREMISES HAS BEEN DECLARED A PUBLIC NUISANCE AND THE OWNERS OF THE PREMISES ARE HEREBY ORDERED AND DIRECTED TO ABATE SUCH NUISANCE AND TO OBTAIN A DEMOLITION PERMIT FROM THE BUILDING SAFETY DIVISION OF THE CITY OF MODESTO FOR THE DEMOLITION OF THE SINGLE-FAMILY DWELLING AND ATTACHED GARAGE AND REMOVE ALL CONSTRUCTION DEBRIS WITHIN THIRTY (30) DAYS OF THE DATE THIS NOTICE IS POSTED ON THE PREMISES.**

**IF THE NUISANCE IS NOT ABATED, BY DEMOLITION AND CLEAN UP OF THE PROPERTY ABATEMENT SHALL BE COMPLETED BY THE CITY OF MODESTO 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: January 29, 2015



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WILLIAM CREW  
SECRETARY TO THE BOARD

WC:cp  
Attachment

cc: KEVIN P. NIM  
DALINA K. EANG  
2009 ST SEBASTIAN WAY  
MODESTO, CA 95358-7121

KEVIN P. NIM  
DALINA K. EANG  
2322 RENFIELD WAY  
SAN JOSE, CA 95148-4037

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P.O. BOX 11701  
NEWARK, NJ 07101-4701

City Attorney  
William Crew, Chief Building Official  
Bert Lippert, Building Inspection Program Coordinator  
Chris Kemper, Code Enforcement Officer II  
File

BOARD OF BUILDING APPEALS  
RESOLUTION NO. 2015-01

A RESOLUTION DECLARING THE BUILDING LOCATED AT 4104 LAMARCK AVENUE A PUBLIC NUISANCE AND DIRECTING THE OWNER(S) OF THE PROPERTY TO ABATE THE NUISANCE WITHIN THIRTY (30) DAYS

WHEREAS, Kevin P. Nim and Dalina K. Eang have title to and are the recorded owner of property located at 4104 Lamarck Avenue in the City of Modesto, County of Stanislaus, hereinafter referred to collectively as the "premises;" and

WHEREAS, the premises at 4104 Lamarck Avenue consists of the open and unsecured partially demolished two-story single-family dwelling destroyed by fire with attached three (3) car garage; 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 November 19, 2014; and

WHEREAS, a Notice and Order dated November 26, 2014, was issued by the Chief Building Official to contact the Building Safety Division of the City of Modesto and obtain a demolition permit from the Building Safety Division of the City of Modesto for the demolition of the single-family dwelling and attached garage within thirty (30) calendar days of the date of this Notice and Order; and

WHEREAS, said Notice and Order dated November 26, 2014, gave notice that the premises were found to be Unsafe, Unfit for Human Occupancy and a Public Nuisance; and

WHEREAS, on November 26, 2014, said Notice and Order of November 26, 2014, 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 November 26, 2014, said Notice and Order of November 26, 2014, 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, 2015, 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 22, 2015, at 4:00 p.m., in the Second Floor Conference Room 2005 – Tenth Street Place, 1010 Tenth Street, Modesto, California; regarding the real property situated in the City of Modesto commonly referred to as 4104 Lamarck 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 4104 Lamarck Avenue, hereinafter referred to collectively as the “premises,” be hereby declared a public nuisance.
2. The board affirms the Notice and Order dated November 26, 2014.
  - a) You shall obtain a demolition permit from the Building Safety Division of the City of Modesto for the demolition of the single-family dwelling and attached garage and cleanup of all construction debris as ordered within thirty (30) days of the date of the resolution.

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. 2015-01, declaring a nuisance and directing abatement of the nuisance.

BE IT FURTHER RESOLVED that within thirty (30) days after passage of this Resolution No. 2015-01, 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 22nd day of January 2015, 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, Reid, Rodriguez, and Yoshino
Noes:	None
Absent:	None

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

  
\_\_\_\_\_  
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 10<sup>th</sup> Street, Modesto,  
4 California 95354.

5 On January 29, 2015, I served a copy of the NOTICE OF PASSAGE OF RESOLUTION for  
6 4104 Lamarck Avenue, Modesto, California; Assessor's Parcel No. 043-025-015; on all parties in  
7 said action by serving a true copy thereof as follows:

8 KEVIN P. NIM  
9 DALINA K. EANG  
10 2009 ST SEBASTIAN WAY  
11 MODESTO, CA 95358-7121

12 KEVIN P. NIM  
13 DALINA K. EANG  
14 2322 RENFIELD WAY  
15 SAN JOSE, CA 95148-4037

16 WELLS FARGO BANK, N.A.  
17 P.O. BOX 11701  
18 NEWARK, NJ 07101-4701

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

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

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

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

29 I declare under penalty of perjury under the laws of the State of California that the foregoing  
30 is true and correct. Executed this 29th day of January 2015, at Modesto, California.

31  Carmen Peña   
32 CARMEN PIÑA  
33 ADMINISTRATIVE OFFICE ASSISTANT III