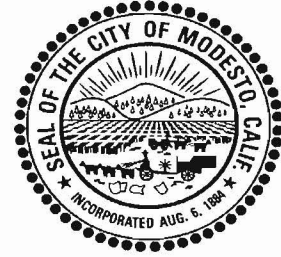


CITY OF MODESTO, CALIFORNIA

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

NOVEMBER 3, 2015

**TO: YOSEMITE HEALTH SPA
C/O YEN NGOC THIEN
111 NORTH SANTA CRUZ AVENUE
MODESTO, CA 95354-2756**

**YEN NGOC THIEN
2994 ANGELONI PLACE
SAN JOSE, CA 95111-4602**

**CHARLES BRANDON PERRY
VALERIE E. PERRY
17731 MILTON ROAD
FARMINGTON, CA 95230-9601**

VIA: CERTIFIED MAIL – RETURN RECEIPT REQUESTED

**RE: REMODEL OF 111 NORTH SANTA CRUZ AVENUE WITHOUT
REQUIRED PERMITS AND INSPECTIONS FROM THE BUILDING
SAFETY DIVISION FOR USE AS A MASSAGE PARLOR LOCATED ON
THE PROPERTY WITH THE ADDRESS OF 1309 YOSEMITE
BOULEVARD, MODESTO, CALIFORNIA; CITY OF MODESTO CODE
ENFORCEMENT CASE NO. COD2015-70100**

PLEASE TAKE NOTICE that on October 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 111 North Santa Cruz Avenue/1309 Yosemite Boulevard (hereinafter referred to collectively as the “premises”). Following the public hearing, the Board adopted Resolution No. 2015-07, a true and correct copy of which is attached to this Notice.

PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO RESOLUTION NO. 2015-07, THE PREMISES HAS BEEN DECLARED A PUBLIC NUISANCE AND THE OWNERS OF THE PREMISES ARE HEREBY ORDERED AND DIRECTED TO ABATE SUCH NUISANCE BY CEASING ALL BUSINESS ACTIVITY AND THE OWNER SHALL PROHIBIT ANY NEW TENANTS FROM OCCUPYING THE STRUCTURE UNTIL ALL VIOLATIONS ARE CORRECTED AND INSPECTED BY THE BUILDING SAFETY DIVISION WITHIN THIRTY (30) DAYS OF THE DATE THIS NOTICE IS POSTED ON THE PREMISES.

IF THE NUISANCE IS NOT ABATED, THE CITY OF MODESTO WILL 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: November 3, 2015



WILLIAM CREW
SECRETARY TO THE BOARD

WC:cp
Attachment

cc: YOSEMITE HEALTH SPA
C/O YEN NGOC THIEN
111 NORTH SANTA CRUZ AVENUE
MODESTO, CA 95354-2756

YEN NGOC THIEN
2994 ANGELONI PLACE
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CHARLES BRANDON PERRY
VALERIE E. PERRY
17731 MILTON ROAD
FARMINGTON, CA 95230-9601

City Attorney
William Crew, Chief Building Official
Bert Lippert, Building Inspection Program Coordinator
Chris Kemper, Neighborhood Preservation Supervisor
File

BOARD OF BUILDING APPEALS
RESOLUTION NO. 2015-07

A RESOLUTION DECLARING THE BUILDING LOCATED AT 111 NORTH SANTA CRUZ/1309 YOSEMITE BOULEVARD A PUBLIC NUISANCE AND DIRECTING THE OWNER(S) OF THE PROPERTY TO ABATE THE NUISANCE WITHIN THIRTY (30) DAYS

WHEREAS, Charles Brandon Perry and Valerie E. Perry have title to and are the recorded owners of property located at 111 North Santa Cruz Avenue and 1309 Yosemite Boulevard in the City of Modesto, County of Stanislaus, hereinafter referred to collectively as the “premises”; and

WHEREAS, the premises at 111 North Santa Cruz Avenue/1309 Yosemite Boulevard consist of the remodel of 111 North Santa Cruz Avenue without the required permits and inspections from the Building Safety Division for use as a massage parlor; 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; and

WHEREAS, inspection of the premises was conducted by City of Modesto Building Safety Division personnel on July 6, 2015; and

WHEREAS, a Notice and Order dated August 27, 2015, was issued by the Chief Building Official and said owner was ordered to contact the Building Safety Division of the City of Modesto and OWNER: STOP WORK IMMEDIATELY: The current tenants, YOSEMITE HEALTH SPA, must immediately cease all business activity. Within ten (10) calendar days of the date of this Notice and Order you must 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 a Certificate of Occupancy from the Building Safety Division of the City of Modesto. To obtain a Certificate of Occupancy you will be required to provide four (4) sets of plans prepared by a registered design professional. These plans shall reflect the scope of work required to bring the current structure into compliance with the California Building, Electrical, Mechanical and Plumbing Codes. These plans shall also show how the current structure will be made to meet the requirements of Chapter 11B of the California Building Code for handicap accessibility within thirty (30) calendar days of the date of this Notice and Order. All work required to bring your property into compliance with this order must be completed and you must obtain final approval from the Building Safety Division within sixty (60) calendar days of the date of this Notice and Order.

TENANT: VIP HEALTH SPA STOP WORK IMMEDIATELY: You are hereby notified that the use of this suite as a place of business is in violation of the Modesto Municipal Code and as a result you must cease all business activity immediately; and

WHEREAS, said Notice and Order dated August 27, 2015, gave notice that the premises were found to be Unsafe, Unfit for Human Occupancy and a Public Nuisance; and

WHEREAS, on August 27, 2015, said Notice and Order of August 27, 2015, 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 August 27, 2015, said Notice and Order of August 27, 2015, 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 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 October 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 111 North Santa Cruz Avenue/1309 Yosemite Boulevard; 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 111 North Santa Cruz/ 1309 Yosemite Boulevard, hereinafter referred to collectively as the "premises," be hereby declared a public nuisance.

2. The Board affirms the Notice and Order dated August 27, 2015, and;
 - a) Specifically prohibits any new tenants from occupying the structure until all violations are corrected and inspected by the Building Safety Division.

BE IT FURTHER RESOLVED:

1. Thirty (30) days after the posting of copies of this resolution, 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 civil penalties shall be assessed as prescribed in the Notice and Order dated August 27, 2015. In the event that the nuisance is not abated within the time prescribed, the City of Modesto may set a time for a Civil Penalties hearing.

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. 2015-07, declaring a nuisance and directing abatement of the nuisance.

BE IT FURTHER RESOLVED that within thirty (30) days after passage of this Resolution No. 2015-07, 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 October 2015, by Board Member, Richard Dalton, who moved its adoption, which motion being duly seconded by Board Member, Evan Yoshino, was upon roll call carried in the resolution adopted by the following vote:

Ayes:	Dalton, Yoshino, Reid
Noes:	None
Absent:	Rodriguez, Wungluck

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 10th Street, Modesto,
4 California 95354.

5 On November 3, 2015, I served a copy of the NOTICE OF PASSAGE OF RESOLUTION for
6 111 North Santa Cruz Avenue, Modesto, California; Assessor's Parcel No. 108-016-009 on all
parties in said action by serving a true copy thereof as follows:

7 YOSEMITE HEALTH SPA
8 C/O YEN NGOC THIEN
9 111 NORTH SANTA CRUZ AVENUE
MODESTO, CA 95354-2756

10 YEN NGOC THIEN
11 2994 ANGELONI PLACE
SAN JOSE, CA 95111-4602

12 CHARLES BRANDON PERRY
13 VALERIE E. PERRY
14 17731 MILTON ROAD
FARMINGTON, CA 95230-

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

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

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

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

26 I declare under penalty of perjury under the laws of the State of California that the foregoing
27 is true and correct. Executed this 3rd day of November 2015, at Modesto, California.

28 Carmen Piña
Carmen Piña
Administrative Office Assistant III