

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 8, 2016

**TO: BIO PROFIT SERIES I, LLC
1055 EAST COLORADO BOULEVARD, SUITE 225
PASADENA, CA 91106-2370**

**DAVID P. STAPLETON
C/O LAW OFFICES OF ALLEN MATKINS LECK
GAMBLE MALLORY AND NATSIS LLP
515 SOUTH FIGUEROA STREET, 9TH FLOOR
LOS ANGELES, CA 90017-3309**

**CITIMORTGAGE, INC.
C/O NATIONAL DEFAULT SERVICING CORPORATION
AN ARIZONA CORPORATION
7720 NORTH 16TH STREET, SUITE 300
PHOENIX, AZ 85020-7404**

**CITIMORTGAGE, INC.
1000 TECHNOLOGY DRIVE
O'FALLON, MO 63368-2239**

**JEREMIAH W. FOREST
CHASTITY M. FOREST
2608 SPARKS WAY
MODESTO, CA 95350-1780**

VIA: CERTIFIED MAIL – RETURN RECEIPT REQUESTED

**RE: THE ADDITION TO THE SINGLE-FAMILY DWELLING BY
ENCLOSING THE CARPORT AND PATIO TO CREATE HABITABLE
LIVING SPACE WITHOUT REQUIRED PERMITS AND INSPECTIONS
HAS CAUSED UNSAFE CONDITIONS ON THE PROPERTY**

IDENTIFIED AS 2608 SPARKS WAY, MODESTO, CALIFORNIA; CITY OF MODESTO CODE ENFORCEMENT CASE NO. COD2015-70010

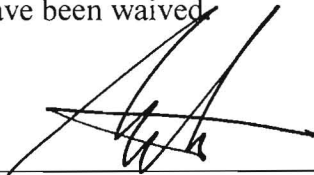
PLEASE TAKE NOTICE that on January 28, 2016, the Board of Building Appeals of the City of Modesto conducted a public hearing regarding the real property situated in the City of Modesto commonly referred to as 2608 Sparks Way (hereinafter referred to collectively as the "premises"). Following the public hearing, the Board adopted Resolution No. 2016-02, a true and correct copy of which is attached to this Notice.

PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO RESOLUTION NO. 2016-02, THE BOARD AFFIRMS AND UPHOLDS THE NOTICE AND ORDER DATED DECEMBER 10, 2015, THE PREMISES HAS BEEN DECLARED A PUBLIC NUISANCE AND THE OWNERS OF THE PREMISES ARE HEREBY ORDERED AND DIRECTED TO ABATE SUCH NUISANCE AS DIRECTED BY THE NOTICE AND ORDER DATED DECEMBER 10, 2015.

IF THE NUISANCE IS NOT ABATED WITHIN THIRTY (30) DAYS OF THE POSTING OF THIS RESOLUTION, THE CITY WILL PROCEED WITH 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 8, 2016



WILLIAM CREW
SECRETARY TO THE BOARD

WC:cp
Attachment

cc: BIO PROFIT SERIES I, LLC
1055 EAST COLORADO BOULEVARD, SUITE 225
PASADENA, CA 91106-2370

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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. 2016-02

A RESOLUTION DECLARING THE BUILDING LOCATED AT
2608 SPARKS WAY A PUBLIC NUISANCE AND DIRECTING THE
OWNER(S) OF THE PROPERTY TO ABATE THE NUISANCE WITHIN
THIRTY (30) DAYS

WHEREAS, Bio Profit Series I, LLC has title to and is the recorded owner of property located at 2608 Sparks Way in the City of Modesto, County of Stanislaus, hereinafter referred to collectively as the “premises”; and

WHEREAS, the premises at 2608 Sparks Way consists of the addition to the single-family dwelling by enclosing the carport and patio to create habitable living space without required permits and inspections have caused unsafe conditions on the property identified as 2608 Sparks Way, Modesto, California; 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 February 17, 2005; and

WHEREAS, a Notice and Order dated, December 10, 2015, was issued by the Chief Building Official to contact the Building Safety Division of the City of Modesto and if you intend to bring the single-family dwelling 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 William Crew, Chief Building Official of the City of Modesto, to schedule a meeting to state your intent to repair or demolish this structure; the enclosed Intent to Repair or Demolish Form is to be used for this purpose. 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. This schedule must be approved by the Building Official before this option will be considered; if the property is presently occupied you are required within seven (7) calendar days of the date of this Notice and Order to begin the eviction removal process and contact the Building Safety Division of the City of Modesto providing proof that the eviction process has legally begun for approval by the Chief Building Official; and following approval by the Chief Building Official of the construction schedule, you are required to meet the agreed upon dates for application, plan submittal, anticipated permit issuance, start of construction, progress dates, and final inspection; and if you intend not to bring the conversion of the carport and patio to create habitable living space into compliance with the Modesto Municipal Code, you must obtain a demolition permit from the Building Safety Division of the City of Modesto for the demolition of the carport and patio conversion and restore them both back into their intended use within thirty (30) calendar days of the date of this Notice and Order; physically commence the demolition of the carport and patio conversion and obtain final approval from the

Building Safety Division of the City of Modesto within sixty (60) calendar days of the date of this Notice and Order; and

WHEREAS, said Notice and Order dated December 10, 2015, gave notice that the premises were found to be Unsafe, Unfit for Human Occupancy and a Public Nuisance; and

WHEREAS, on December 10, 2015, said Notice and Order of December 10, 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 December 10, 2015, said Notice and Order of December 10, 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 January 15, 2016, 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 28, 2016, 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 2608 Sparks Way; 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 2608 Sparks Way, hereinafter referred to collectively as the “premises,” be hereby declared a public nuisance.
2. The Board affirms and upholds the Notice and Order dated December 10, 2015.

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. 2016-02, declaring a nuisance and directing abatement of the nuisance.

BE IT FURTHER RESOLVED that within thirty (30) days after passage of this Resolution No. 2016-02, 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 28th day of January 2016, 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, Rodriguez, Reid
Noes: None
Absent: Wungluck, Yoshino

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 February 8, 2016, I served a copy of the NOTICE OF PASSAGE OF RESOLUTION for
6 2608 Sparks Way, Modesto, California; Assessor's Parcel No. 005-042-070; on all parties in said
7 action by serving a true copy thereof as follows:

8 **BIO PROFIT SERIES I, LLC, 1055 EAST COLORADO BOULEVARD, SUITE 225**
9 **PASADENA, CA 91106-2370**

10 **DAVID P. STAPLETON, C/O LAW OFFICES OF ALLEN MATKINS LECK , GAMBLE MALLORY**
11 **AND NATSIS LLP, 515 SOUTH FIGUEROA STREET, 9TH FLOOR, LOS ANGELES, CA 90017-3309**

12 **CITIMORTGAGE, INC., C/O NATIONAL DEFAULT SERVICING CORPORATION AN ARIZONA**
13 **CORPORATION, 7720 NORTH 16TH STREET, SUITE 300, PHOENIX, AZ 85020-7404**

14 **CITIMORTGAGE, INC., 1000 TECHNOLOGY DRIVE, O'FALLON, MO 63368-2239**

15 **JEREMIAH W. FOREST, CHASTITY M. FOREST, 2608 SPARKS WAY, MODESTO, CA 95350-1780**


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

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

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

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

I declare under penalty of perjury under the laws of the State of California that the foregoing
is true and correct. Executed this 8th day of February 2016, at Modesto, California.



CARMEN PIÑA
ADMINISTRATIVE OFFICE ASSISTANT III