

**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**

**AUGUST 6, 2019**

**TO: AREA X INC  
C/O NEFTALI ALBERTO  
2405 KANSAS AVENUE  
MODESTO, CA 95358**

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

**RE: THE PARTIALLY DEMOLISHED SINGLE-FAMILY DWELLING THE  
RESULT OF THE FAILURE TO COMPLETE ITS REPAIR, REMODEL  
AND 2ND FLOOR ADDITION STARTED UNDER EXPIRED BUILDING  
PERMIT BLD2018-40620 LOCATED ON THE PROPERTY IDENTIFIED  
AS 829 BRADY AVENUE, MODESTO, CALIFORNIA; CITY OF  
MODESTO CODE ENFORCEMENT CASE NO. COD2019-50104**

PLEASE TAKE NOTICE that on July 25, 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 829 Brady Avenue (hereinafter referred to collectively as the “premises”). Following the public hearing, the Board adopted Resolution No. 2019-14, a true and correct copy of which is attached to this Notice.

**PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO RESOLUTION  
NO. 2019-14, THE BOARD DECLARES THE PREMISES A PUBLIC NUISANCE,  
THE BOARD AFFIRMS THE NOTICE AND ORDER DATED MAY 30, 2019;**

**THE OWNERS OF THE PREMISES LOCATED AT 829 BRADY AVENUE ARE  
HEREBY ORDERED AND DIRECTED TO ABATE SUCH NUISANCE BY**

**ABATEMENT AS ORDERED IN SAID NOTICE AND ORDER DATED MAY 30, 2019,**

**THE BOARD UPHOLDS CIVIL PENALTIES IN THE AMOUNT OF THIRTEEN THOUSAND DOLLARS (\$13,000.00) AND HEARING COSTS IN THE AMOUNT OF SEVEN HUNDRED TWENTY DOLLARS AND SIXTY-FIVE CENTS (\$720.65) AS STATED IN THE COST REPORT UNDER EXHIBIT B OF THE CIVIL PENALTY HEARING PACKET AND THE EXPENSE THEREOF MADE A PERSONAL OBLIGATION AND A LIEN AGAINST THE OWNER AND PROPERTY.**

**IF THE PROPERTY OWNER FAILS TO ABATE THE NUISANCE CONDITIONS WITHIN THIRTY (30) CALENDAR DAYS FROM THE POSTING OF COPIES OF THE RESOLUTION, THE CITY OF MODESTO SHALL BE DEEMED TO HAVE ACQUIRED JURISDICTION TO ABATE SUCH NUISANCE AND THE EXPENSE THEREOF MADE A PERSONAL OBLIGATION AND A LIEN AGAINST THE OWNER AND PROPERTY.**

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) calendar 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: August 6, 2019



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OSCAR DIAZ  
SECRETARY TO THE BOARD

OD:cp  
Attachment

cc: AREA X INC  
C/O NEFTALI ALBERTO  
2405 KANSAS AVENUE  
MODESTO, CA 95358

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

BOARD OF BUILDING APPEALS  
RESOLUTION NO. 2019-14

A RESOLUTION DECLARING THE BUILDING LOCATED AT 829 BRADY AVENUE A PUBLIC NUISANCE AND DIRECTING THE OWNER(S) OF THE PROPERTY TO ABATE THE NUISANCE WITHIN THIRTY (30) DAYS

WHEREAS, Area X Inc., C/O Neftali Alberto has title to and is the recorded owner of property located at 828 Brady Avenue in the City of Modesto, County of Stanislaus, hereinafter referred to collectively as the “premises”; and

WHEREAS, the premises at 829 Brady Avenue consists of the partially demolished single-family dwelling the result of the failure to complete its repair, remodel, and 2<sup>nd</sup> floor addition started under expired Building Permit No. BLD2018-40620; 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 15, 2018; and

WHEREAS, a Notice and Order dated May 30, 2019, was issued by the Chief Building Official to contact the Building Safety Division of the City of Modesto and **NOTE: THIS PROPERTY AND THE SINGLE-FAMILY DWELLING WITH ATTACHED GARAGE IDENTIFIED AS 829 BRADY AVENUE HAVE BEEN DEEMED UNSAFE AND A PUBLIC NUISANCE BY THE BUILDING SAFETY DIVISION OF THE CITY OF MODESTO. IF YOU INTEND TO TAKE THE NECESSARY ACTIONS TO MAKE THIS SINGLE-FAMILY DWELLING AND PROPERTY SAFE AND NO LONGER A PUBLIC NUISANCE YOU HAVE ONLY TO DO THE FOLLOWING:**

**If you want to bring the single-family dwelling identified as 829 Brady Avenue into compliance with the Modesto Municipal Code at this time, then you are required to obtain a Building Permit from the Building Safety Division of the City of Modesto to complete the repairs, remodel, and second-floor addition within thirty (30) calendar days of the date of this Notice and Order and obtain final approval within one hundred eight (180) calendar days of the date of this Notice and Order; and**

WHEREAS, said Notice and Order dated May 30, 2019, gave notice that the premises were found to be Unsafe, Unfit for Human Occupancy and a Public Nuisance; and

WHEREAS, on May 30, 2019, said Notice and Order of May 30, 2019, 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 May 30, 2019, said Notice and Order of May 30, 2019, 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 July 15, 2019, 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 July 25, 2019, at 4:00 p.m., in the Basement Floor Conference Room B300 – Tenth Street Place, 1010 Tenth Street, Modesto, California; regarding the real property situated in the City of Modesto commonly referred to as 829 Brady 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 property located at 829 Brady Avenue hereinafter referred to collectively as the "premises," be hereby declared a public nuisance; and

BE IT FURTHER RESOLVED that pursuant to RESOLUTION NO. 2019-14, The owner of the premises located at 829 Brady Avenue are hereby ordered and directed to abate such nuisance by abatement as ordered in said Notice and Order dated May 30, 2019. The Board upholds civil penalties in the amount of Thirteen Thousand Dollars (\$13,000.00) and hearing costs in the amount of Seven Hundred Twenty Dollars and

Sixty-Five Cents (\$720.65) as stated in the cost report under Exhibit B of the Civil Penalty Hearing Packet and the expense thereof made a personal obligation and a lien against the owner and property.

If the property owner fails to abate the nuisance conditions within thirty (30) calendar days from the posting of copies of the resolution, the City of Modesto shall be deemed to have acquired jurisdiction to abate such nuisance and the expense thereof made a personal obligation and a lien against the owner and property.

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. 2019-14, declaring a nuisance and directing abatement of the nuisance.

BE IT FURTHER RESOLVED that within thirty (30) calendar days after passage of this Resolution No. 2019-14, 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 July 2019, by Board Member, Rick Reid, who moved its adoption, which motion being duly seconded by Board Member, Brad Wungluck, was upon roll call carried in the resolution adopted by the following vote:

Ayes:	Bergman, Wungluck, Reid, Yoshino (Recused)
Noes:	None
Absent:	Dalton

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

  
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RICK REID  
BOARD OF BUILDING APPEALS

**PROOF OF SERVICE - CCP §1013(a)(3)**

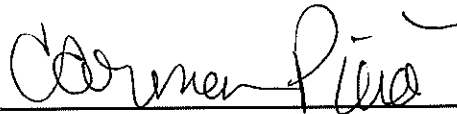
I am employed in the County of Stanislaus, State of California. I am over the age of eighteen years and not a party to the within entitled cause; my business address is: 1010 10<sup>th</sup> Street, Modesto, California 95354.

On August 6, 2019, I served a copy of the NOTICE OF PASSAGE OF RESOLUTION for 829 Brady Ave, Modesto, California, Assessor's Parcel No. 113010001, on all parties in said action by serving a true copy thereof as follows:

**TO: AREA X INC  
C/O NEFTALI ALBERTO  
2405 KANSAS AVENUE  
MODESTO, CA 95358**

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. I executed this 6<sup>th</sup> day of August 2019, at Modesto, California.



Carmen Piña,  
Administrative Office Assistant III

**COD2019-50104**