

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 29, 2019

**TO: JOY TAMARAS
2659 17TH AVENUE
SAN FRANCISCO, CA 94116**

VIA: CERTIFIED MAIL – RETURN RECEIPT REQUESTED

**RE: THE COMMERCIAL PROPERTY DESTROYED BY FIRE LOCATED AT
801 8TH STREET, MODESTO, CALIFORNIA; CITY OF MODESTO
CODE ENFORCEMENT CASE NO. COD2018-40159**

PLEASE TAKE NOTICE that on August 22, 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 801 8th Street (hereinafter referred to collectively as the “premises”). Following the public hearing, the Board adopted Resolution No. 2019-16, a true and correct copy of which is attached to this Notice.

PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO RESOLUTION NO. 2019-16, THE PREMISES HAS BEEN DECLARED A PUBLIC NUISANCE. THE BOARD AFFIRMS THE NOTICE AND ORDER DATED SEPTEMBER 28, 2018; AND ORDERS AND DIRECTS THE OWNER OF THE PREMISES TO ABATE SUCH NUISANCE BY CONTACTING OSCAR DIAZ, CHIEF BUILDING OFFICIAL TO SCHEDULE A MEETING TO DECLARE THE INTENT TO DEMOLISH OR RECONSTRUCT THE STRUCTURE. THE CONSTRUCTION/DEMOLITION SCHEDULE MUST APPROVED BY THE BUILDING OFFICIAL. IF THE OWNER DOES NOT CONTACT THE CHIEF BUILDING OFFICIAL WITHIN SEVEN (7) DAYS OF THE DATE OF THE POSTING OF THIS NOTICE, THE BOARD ORDERS THE CHIEF BUILDING OFFICIAL TO PROCEED WITH AN ADMINISTRATIVE ABATEMENT

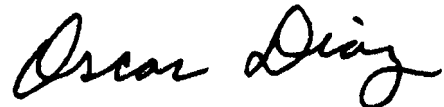
DEMOLISHING THE BUILDING AND THE EXPENSE THEREOF BE MADE A PERSONAL OBLIGATION AND A LIEN PLACED AGAINST THE OWNER AND PROPERTY.

THE BOARD AFFIRMS THE HEARING COSTS IN THE AMOUNT OF EIGHT HUNDRED-THIRTY DOLLARS AND SIXTY-THREE CENTS (\$830.63) AND SHALL BE MADE A PERSONAL OBLIGATION AND A LIEN PLACED AGAINST THE OWNER AND PROPERTY.

IF THE NUISANCE IS NOT ABATED, THE CITY OF MODESTO SHALL PROCEED WITH THE 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: AUGUST 29, 2019



OSCAR DIAZ
SECRETARY TO THE BOARD

OD:cp
Attachment

cc: JOY TAMARAS
2659 17TH AVENUE
SAN FRANCISCO, CA 94116

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

BOARD OF BUILDING APPEALS
RESOLUTION NO. 2019-16

A RESOLUTION DECLARING THE BUILDING LOCATED AT 801 8TH
STREET A PUBLIC NUISANCE AND DIRECTING THE OWNER(S) OF THE
PROPERTY TO ABATE THE NUISANCE WITHIN THIRTY (30) DAYS

WHEREAS, Joy Tamaras has title to and is the recorded owner of property located at 801 8th Street in the City of Modesto, County of Stanislaus, hereinafter referred to collectively as the “premises”; and

WHEREAS, the premises at 801 8th 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 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 September 15, 2018 and September 17, 2018; and

WHEREAS, a Notice and Order dated September 28, 2018, was issued by the Chief Building Official to contact the Building Safety Division of the City of Modesto and You shall obtain a demolition permit from the Building Safety Division of the City of Modesto for the demolition of the commercial structure within thirty (30) calendar days of the date of this Notice and Order; and

1. Physically commence the demolition of the commercial structure and obtain final approval from the Building Safety Division of the City of Modesto within thirty (30) calendar days of the date of this Notice and Order; and
2. If you intend to bring the commercial structures into compliance with the Modesto Municipal Code, you shall employ a licensed professional structural engineer to review the exterior poured in place exterior walls, its foundation, the masonry bricks added to the parapet walls, and basement providing a report from the engineer to our office within thirty (30) calendar days from the date of this Notice and Order; and
3. If you intend to bring the commercial structures into compliance with the Modesto Municipal Code, you are required to contact Oscar Diaz, Chief Building Official of the City of Modesto, to schedule a meeting to state your intent to repair or demolish the commercial structures along with a completed form that details the dates for start of construction or demolition and progress dates. This schedule must be approved by the Building Official before this option will be considered; and
4. Following approval by the Chief Building Official of the construction schedule, you are required to meet the agreed upon dates for start of construction or demolition, progress dates, and final inspection approval; and

5. If required by the engineer's report to immediately provide temporary bracing until the commercial structure is demolished or new construction has sufficiently provided stability to the exterior walls; and
6. If you intend not to bring or intend to bring the commercial structures into compliance with the Modesto Municipal Code, you are required to maintain the securement of all points of entry or any open access point to prevent unauthorized entry; and
7. Post the property with NO TRESPASSING signage that cites Section 602 of the California Penal Code within thirty (30) calendar days of the date of the Notice and Order; and
8. Complete and return the enclosed Modesto Police Department Authority to Arrest Form within thirty (30) calendar days of the date of the Notice and Order; and

WHEREAS, said Notice and Order dated September 28, 2018, gave notice that the premises were found to be Unsafe, Unfit for Human Occupancy and a Public Nuisance; and

WHEREAS, on September 28, 2018, said Notice and Order of September 28, 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 September 28, 2018, said Notice and Order of September 28, 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 August 12, 2019, 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 August 22, 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 801 8th 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:

PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO RESOLUTION NO. 2019-16, THE PREMISES HAS BEEN DECLARED A PUBLIC NUISANCE. THE BOARD AFFIRMS THE NOTICE AND ORDER DATED SEPTEMBER 28, 2018; AND ORDERS AND DIRECTS THE OWNER OF THE PREMISES TO ABATE SUCH NUISANCE BY CONTACTING OSCAR DIAZ, CHIEF BUILDING OFFICIAL TO SCHEDULE A MEETING TO DECLARE THE INTENT TO DEMOLISH OR RECONSTRUCT THE STRUCTURE. THE CONSTRUCTION/DEMOLITION SCHEDULE MUST APPROVED BY THE BUILDING OFFICIAL AND IF THE OWNER DOES NOT CONTACT THE CHIEF BUILDING OFFICIAL WITHIN SEVEN (7) DAYS OF THE DATE OF THE POSTING OF THIS NOTICE, THE BOARD ORDERS THE CHIEF BUILDING OFFICIAL TO PROCEED WITH AN ADMINISTRATIVE ABATEMENT DEMOLISHING THE BUILDING AND THE EXPENSE THEREOF BE MADE A PERSONAL OBLIGATION AND A LIEN PLACED AGAINST THE OWNER AND PROPERTY.

THE BOARD AFFIRMS THE HEARING COSTS IN THE AMOUNT OF EIGHT HUNDRED-THIRTY DOLLARS AND SIXTY-THREE CENTS (\$830.63) AND SHALL BE MADE A PERSONAL OBLIGATION AND A LIEN PLACED AGAINST THE OWNER AND PROPERTY.

IF THE NUISANCE IS NOT ABATED, THE CITY OF MODESTO SHALL PROCEED WITH THE ADMINISTRATIVE ABATEMENT AND THE EXPENSE THEREOF MADE A LIEN ON THE LOT OR PARCEL LAND UPON WHICH SAID BUILDINGS ARE LOCATED.

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. 2019-16, declaring a nuisance and directing abatement of the nuisance.

BE IT FURTHER RESOLVED that within thirty (30) days after passage of this Resolution No. 2019-16, 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 August, 2019, by Board Member, Brad Wungluck, 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, Wungluck, Yoshino, Reid
Noes:	None
Absent:	None

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



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 10th Street, Modesto, California 95354.

On August 29, 2019, I served a copy of the NOTICE OF PASSAGE OF RESOLUTION for 801 8th St, Modesto, California, Assessor's Parcel No. 104005004, on all parties in said action by serving a true copy thereof as follows:

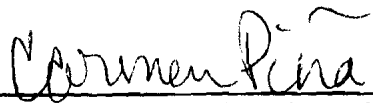
TO: JOY TAMARAS
2659 17TH AVENUE
SAN FRANCISCO, CA 94116

 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 29th day of August 2019, at Modesto, California.



Carmen Piña, Administrative Office Assistant III

COD2018-40159