

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Environmental Resources

BOARD AGENDA # *B-7

Urgent Routine

AGENDA DATE October 20, 2009

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Adopt the Recommendations of the Nuisance Abatement Hearing Board Regarding CE No. 09-0306 at 721 Atlantic Drive, Modesto, California

STAFF RECOMMENDATIONS:

Adopt the decision of the Nuisance Abatement Hearing Board regarding nuisances at 721 Atlantic Drive, Modesto, California as set forth in Attachment 1.

FISCAL IMPACT:

There is no fiscal impact associated with this item.

BOARD ACTION AS FOLLOWS:

No. 2009-697

On motion of Supervisor Monteith, Seconded by Supervisor O'Brien
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

DISCUSSION:

The property address is 721 Atlantic Drive, Modesto, California, and is zoned R-1 (single family residence). On May 15, 2009, an inspection confirmed the property contained an unsecured vacant structure with broken windows and a broken door, and the yard-contained debris, refuse and rubbish. A Notice and Order to Abate was issued and it was later discovered that the property owner, Linda Davis died on August 21, 2008. Her sole heir contacted the Stanislaus County Public Administrator's Office and requested the County probate the estate. Subsequently, the Public Administrator's Office filed a petition and application to summarily dispose of the estate in Stanislaus County Superior Court, Case No. 439592, which was approved on June 24, 2009, authorizing the Public Administrator to disburse the estate in accordance with law.

The Public Administrator's Office has requested the Department of Environmental Resources clean the property. The cost of abatement will be charged to the Public Administrator's Office and once the property is sold, the Department of Environmental Resources will be reimbursed for all costs.

Should the Board decide to adopt the Nuisance Abatement Hearing Board's recommendations as detailed in Attachment 1, the Department of Environmental Resources will contract through the approved methods and take action to abate the nuisance in a timely manner.

This agenda item is important because it promotes a safe community, a healthy community and the efficient delivery of public services, serves the public's interest, and fosters pride in our local community. The decision to be made by the Board of Supervisors is to adopt, modify, or reject the September 24, 2009 recommendations of the Nuisance Abatement Hearing Board, as presented in Attachment 1.

POLICY ISSUE:

The Board should decide if it should accept, modify, or reject the written decision as presented in the Decision of Abatement Hearing No. CE09-0306 (Attachment 1). Acceptance of staff's recommendation would be consistent with the Board's priorities of a safe community, a healthy community and the efficient delivery of public services.

STAFFING IMPACTS:

There are no staffing impacts associated with this request.

CONTACT PERSON:

Sonya K. Harrigfeld, Director. Telephone: 209-525-6770



NUISANCE ABATEMENT HEARING BOARD

DECISION

**IN RE: 721 Atlantic Dr., Modesto, CA.
Abatement Hearing No. CE 09-0306**

The Nuisance Abatement Hearing Board heard the above-referenced matter on, September 24, 2009. Upon consideration of oral and documentary evidence presented at the hearing, the Nuisance Abatement Board finds and determines as follows:

1. The property located at 721 Atlantic Dr., in Modesto, CA, in the unincorporated area of Stanislaus County, California, also identified as Assessor's Parcel Numbers 086-005-023, is zoned R-1, Single Family Residential District.
2. County Staff confirmed the existence of and presented evidence of violations of Stanislaus County Codes occurring on the property, as noted in "Attachment A."
3. All owners of record, tenants and others holding interest of record in the Property are identified and listed in the title report contained in the staff report regarding this matter. The Assessors Inquiry lists as the owner(s) of record for the property as Laura Davis but the property has been turned over to the Public Administrator's Office C/O Donna Sutton.
4. All interested parties were served a Notice and Order to Abate pursuant to Stanislaus County Code Section 2.92.030, describing the conditions or use of the property that constitutes the violations and ordering abatement of those conditions.
5. County staff has attempted to obtain voluntary compliance by the interested parties, and the interested parties have had significant and reasonable time to correct all violations but have refused and/or failed to meet the deadlines prescribed by Notice.
6. The owners have the legal responsibility for maintenance of the property in conformance with the applicable law, ordinance and rules, including abatement of all violations and compliance with all orders of the County.
7. The interested parties were served proper Notice of Hearing to Abate Nuisance pursuant to Stanislaus County Code Section 2.92.070.
8. Based on the evidence and testimony presented at the hearing, which is incorporated herein by reference, there is substantial evidence that violations of the Stanislaus County Code, as set forth in the staff report for the matter, still exists on the property.

ATTACHMENT

9. Pursuant to Stanislaus County Code Section 2.92.010, the continuing violations that exist on the property constitute a public nuisance.

NOW THEREFORE, the Nuisance Abatement Hearing Board recommends that the Stanislaus County Board of Supervisors:

1. Order the owner and interested parties to abate the nuisance on the property within two weeks from the date of the Board decision by correcting the condition or use of the property as set forth in the staff report on this matter.
2. Authorize the County to abate the nuisance and to charge the costs of the abatement to the County if the Owners or other interested parties do not abate the nuisance within the specified time period.
3. Authorize County staff, pursuant to Stanislaus County Code Section 2.92.070, to dispose of any material, equipment, vehicles or other personal property removed from the property to abate a nuisance in any manner authorized by law, and to charge the costs of disposal to the owners and/or interested parties as part of the cost of abatement.
4. Authorize County staff to charge the owners and/or interested parties for County staff time incurred to investigate through the Abatement Hearing.
5. Order a Notice of Abatement Lien be recorded against the property if the owners and/or interested parties fail to pay the costs demanded by the County.

Dated: September 24, 2009


Annabel Gammon

Stanislaus County Nuisance Abatement Hearing Board

It should be noted that on OCT 20 2009 the Board of Supervisors will hear this matter as a consent item.

Attachment "A"

RE: File Number CE 09-0306
Assessor's Parcel Number: 086-005-023
Address: 721 ATLANTIC DR, MODESTO, CA

Inspection of the above reference property revealed the following violations of Stanislaus County Code §2.92.010:

Code Section Violation:	Corrective Action:	Compliance Date:
§2.93.030 and §2.93.040 of the Stanislaus County Code. Unlawful vacant structure.	Obtaining a building permit from Stanislaus County Planning and Community Development, Building Permits Division, located at 1010 10th Street, 3rd Floor, Modesto (525-6557) and conforming to the regulations as set forth in §2.93.050 (attached) to secure the structure against unauthorized entry. Fencing is required. NOTE: If the owner, per §2.93.090, fails to correct the violation within the time specified in the Notice and Order to Abate enforcement action may be taken per §2.92. If the structure(s) is/are deemed a nuisance by the Board of Supervisors a request will be made to demolish and remove the nuisance.	06/19/2009
§9.04.020 of the Stanislaus County Code. Unlawful accumulation of debris, refuse, and rubbish.	Collecting and disposing of all debris, refuse, and rubbish to an approved location.	07/20/2009

Enclosures: Stanislaus County Code

CE# 09-0306

**721 Atlantic Dr.
Modesto, CA**

CHURCH LN

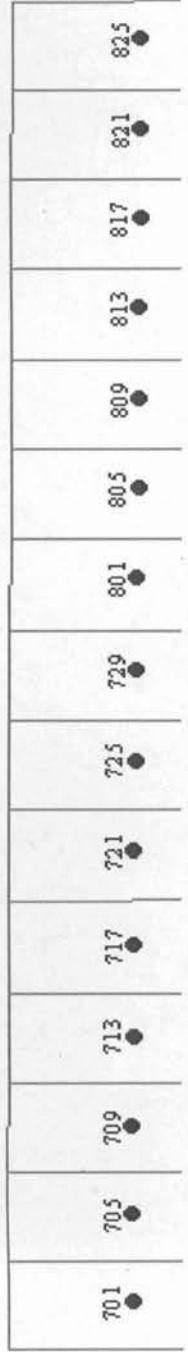
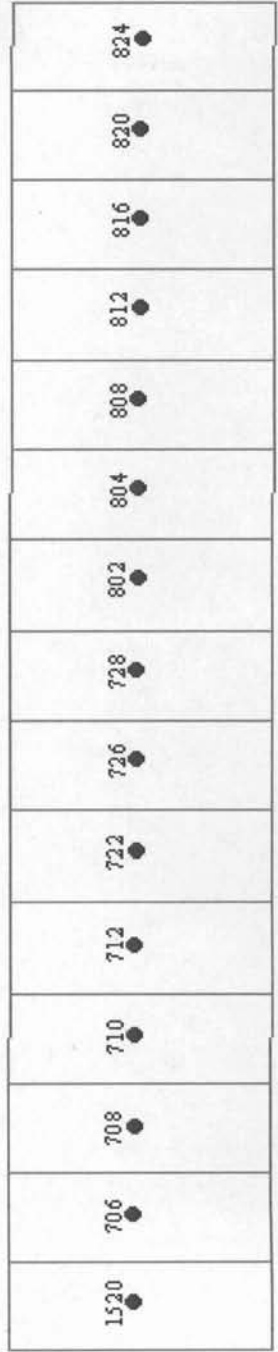
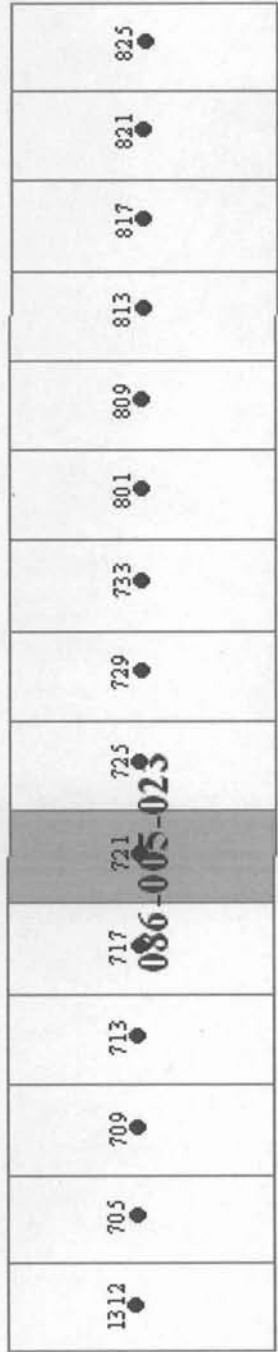
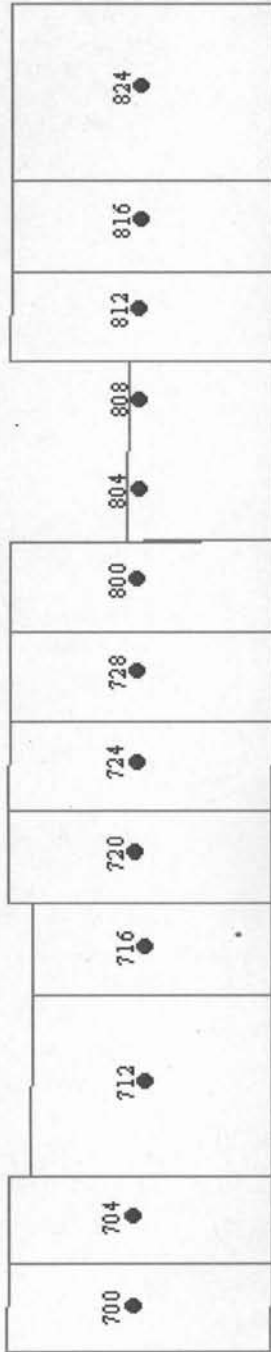
E HATCH RD

ATLANTIC DR

PEARSON AVE

JIM WY

OLIVERO RD



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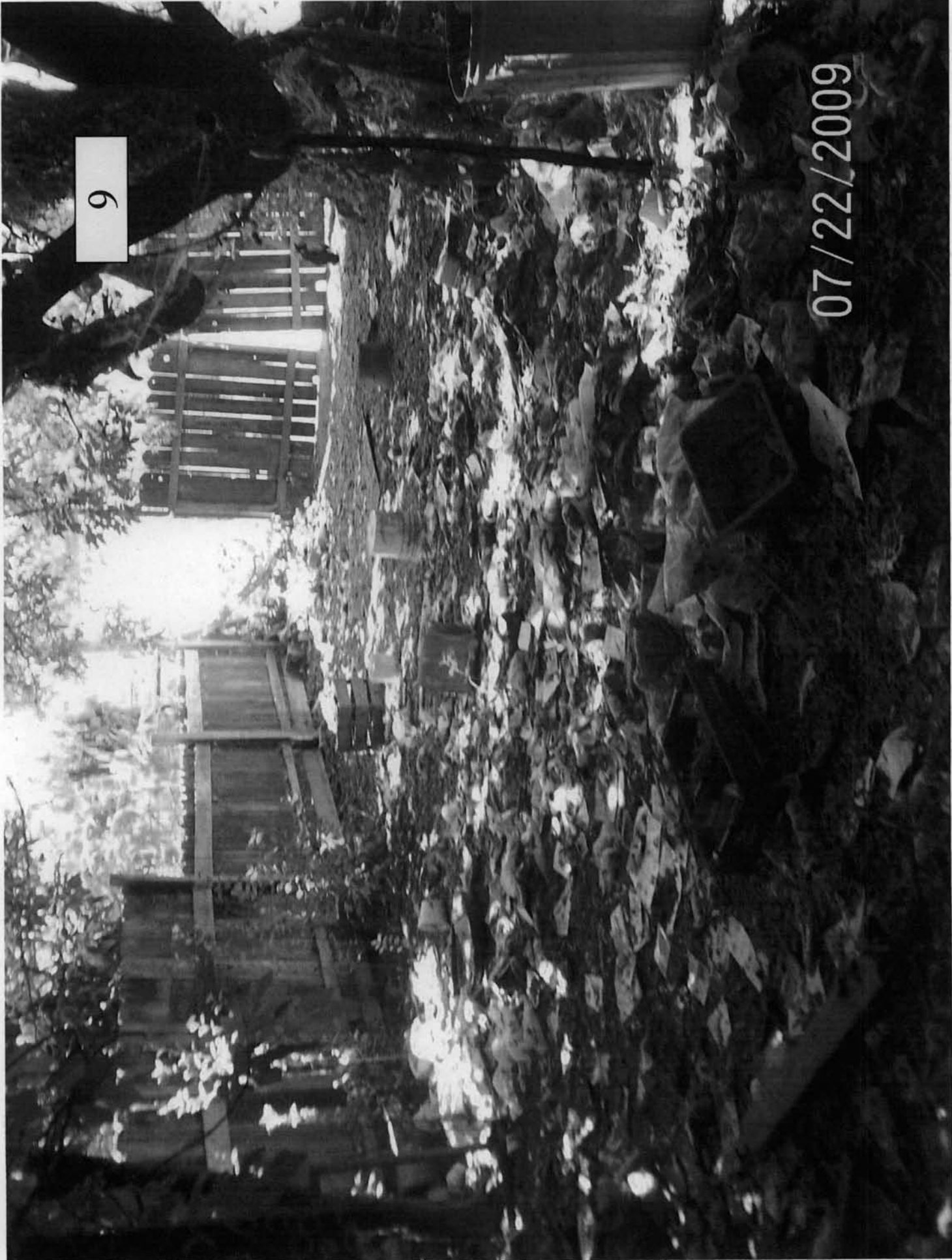
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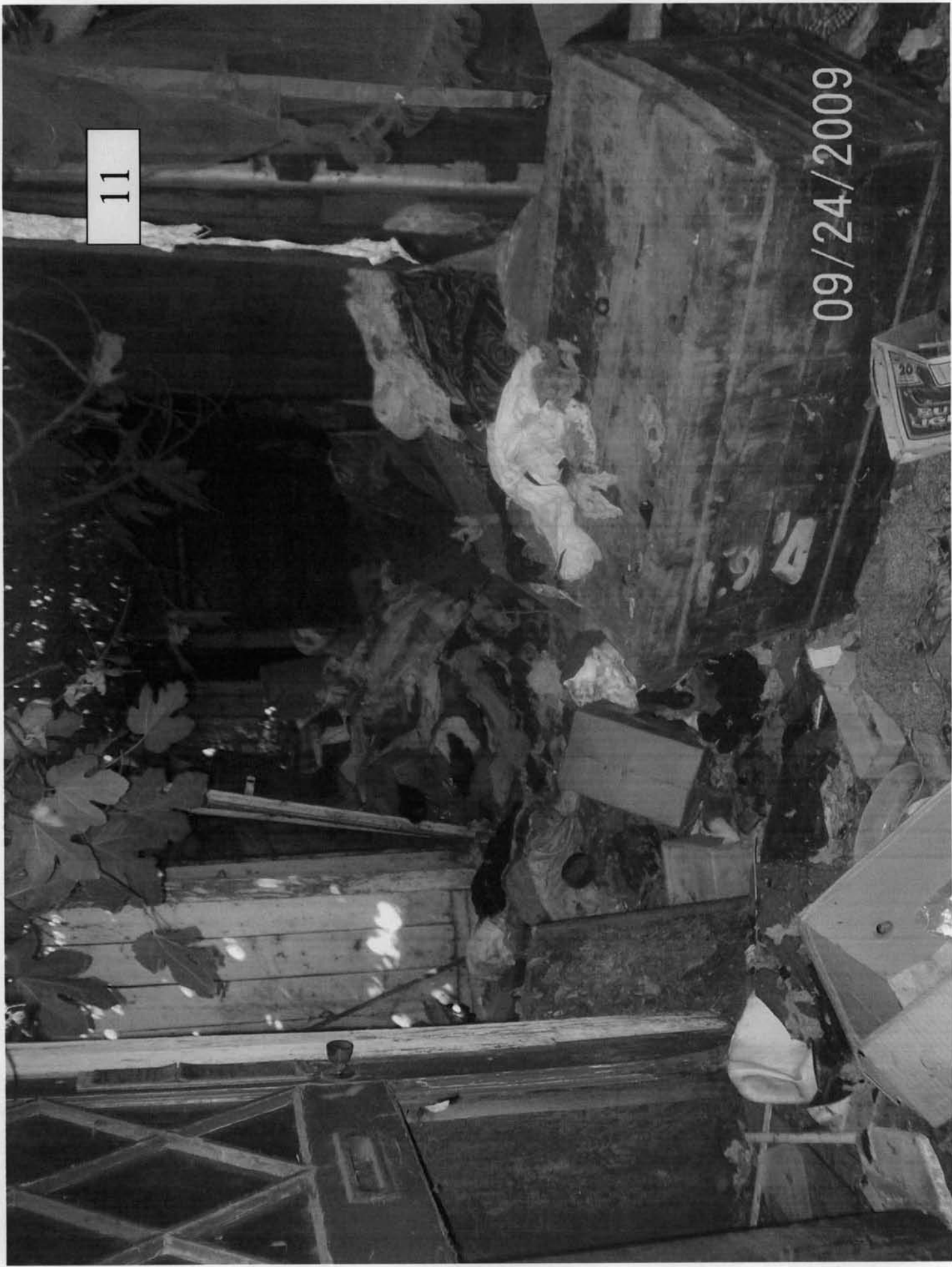
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