

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

DEPT: Environmental Resources *SJA*

BOARD AGENDA # \*B-9

Urgent  Routine

AGENDA DATE April 26, 2011

CEO Concurs with Recommendation YES  NO   
(Information Attached) *Dnt*

4/5 Vote Required YES  NO

SUBJECT:

Approval to Adopt the Recommended Decision of the Nuisance Abatement Hearing Board Regarding CE No. 09-0864 at 124 Pueblo Avenue, Modesto, California

STAFF RECOMMENDATIONS:

Adopt the recommended decision of the Nuisance Abatement Hearing Board regarding nuisances at 124 Pueblo Avenue, Modesto, California, as set forth in Attachment 1.

FISCAL IMPACT:

There is a potential fiscal impact if the property owner(s) fail to comply and the Department is forced to incur abatement costs. The Department has budgeted for abatements and will request estimates from contractors if this item is approved and the property owners fail to abate the nuisance(s). However, if a forced abatement is necessary, the costs will be charged to the property owner(s) and if the responsible person(s) fails to pay the cost of abatement, a Notice of Abatement Lien will be recorded against the property.

BOARD ACTION AS FOLLOWS:

No. 2011-247

On motion of Supervisor O'Brien, Seconded by Supervisor Withrow

and approved by the following vote,

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

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1)  Approved as recommended

2)  Denied

3)  Approved as amended

4)  Other:

MOTION:

*Christine Ferraro*

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval to Adopt the Recommended Decision of the Nuisance Abatement Hearing Board  
Regarding CE No. 09-0864 at 124 Pueblo Avenue, Modesto, California

**DISCUSSION:**

The Code Enforcement Unit responds to complaints throughout the unincorporated area of the County and attempts to gain voluntary compliance through education and personal contact by working with property owners and those persons responsible for creating nuisances. Compliance efforts include issuing Notice and Orders to Abate, conducting inspections, granting extension requests, issuing administrative citations, recording Notices of Non-compliance with the Clerk-Recorder's Office, presenting cases before the Nuisance Abatement Hearing Board and the Board of Supervisors, obtaining inspection warrants, and conducting forced clean-ups.

On December 11, 2009, in response to a complaint regarding a vacant structure with refuse and debris, Code Enforcement staff conducted an inspection at 124 Pueblo Avenue, Modesto, and verified the property contained a vacant, unsecured structure that was missing its doors and several windows, providing uncontrolled access into the interior, as well as an accumulation of debris, refuse, and rubbish. Subsequently, a Notice and Order to Abate was issued followed by a compliance inspection which revealed that the property remained in violation and no compliance efforts had been initiated. This resulted in the recordation of a Notice of Non-compliance with the Clerk-Recorder's Office and the issuance of an Administrative Civil Citation.

Shortly thereafter, the structure suffered fire damage requiring a dangerous building assessment from the Stanislaus County Planning and Community Development, Building Permits Division. After determining that the structure was substandard but not dangerous, the matter was returned to Code Enforcement for boarding. Having been unable to contact the property owner, a title report was obtained revealing the property owner had several tax liens and judgments recorded against her name. Code Enforcement staff subsequently notified the beneficiary, a private lender, requesting their assistance in abating the violations, but they declined stating they hadn't initiated foreclosure proceedings and didn't have the legal right to enter upon the property. They confirmed the loan was in default and the whereabouts of the owner was unknown. The lender also addressed the Nuisance Abatement Hearing Board and supported the County's abatement efforts stating they would abate the property themselves if they had the legal right to do so, but for "various reasons" they have chosen not to foreclose on the property.

On March 24, 2011, the Nuisance Abatement Hearing Board supported staff's recommendation to declare the property a nuisance and forwarded the matter to the Board of Supervisors recommending approval (Attachment 1). The Board of Supervisors may adopt, modify, or reject the recommendations, and if adopted, the property owner(s) will be required to abate the nuisance within two weeks of the Board's decision by complying with the requirements identified in Attachment 1. Should the owner(s) fail to comply, staff will apply for an inspection and abatement warrant with the Superior Court and if approved, will conduct a forced clean-up by boarding all unsecured windows and doors in addition to removing and properly disposing of all the refuse and debris. The cost of the abatement will be charged to the property owner(s) and if the responsible person(s) fails to pay the cost of abatement, a Notice of Abatement Lien will be recorded against the property. Additionally, the Notice of

Approval to Adopt the Recommended Decision of the Nuisance Abatement Hearing Board Regarding CE No. 09-0864 at 124 Pueblo Avenue, Modesto, California

Non-compliance will remain filed in the Clerk-Recorder's Office until the property has been brought into compliance.

**POLICY ISSUE:**

Approval of this agenda item to adopt the recommended decision of the Nuisance Abatement Hearing Board regarding CE No. 09-0864 at 124 Pueblo Avenue, Modesto, is consistent with the Board's priorities of A Safe Community, A Healthy Community, and the Efficient Delivery of Public Services. This approval supports the Department's mission to promote a safe and healthy environment and improve the quality of life in the community through a balance of science, education, partnerships, and environmental regulation.

**STAFFING IMPACTS:**

There are no staffing impacts associated with this item.

**CONTACT PERSON:**

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



## **NUISANCE ABATEMENT HEARING BOARD**

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### **RECOMMENDED DECISION**

**IN RE: 124 Pueblo Avenue, Modesto, CA  
Abatement Hearing No. CE# 09-0864**

The above referenced matter came before the Nuisance Abatement Hearing Board for hearing on March 24, 2011. Upon consideration of oral testimony and documentary evidence presented at the hearing, the Nuisance Abatement Board makes the following findings of fact and conclusions:

1. The property located at 124 Pueblo Avenue, Modesto, CA, in the unincorporated area of Stanislaus County, California, also identified as Assessor's Parcel Number 038-031-040, is zoned R-3, Multiple-Family Residential District.
2. County Staff confirmed the existence of and presented evidence of violations of Stanislaus County Codes, (as listed in the County Code(s) or interpreted or determined to violate County Code(s)) occurring on the property, as noted in "Attachment A."
3. 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.
4. 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.
5. 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.
6. The interested parties were served proper Notice of Hearing to Abate Nuisance pursuant to Stanislaus County Code Section 2.92.070.
7. 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.
8. Pursuant to Stanislaus County Code Section 2.92.010, the continuing violations that exist on the property constitute a public nuisance.

The Nuisance Abatement Hearing Board further recommends the Board of Supervisors adopt the following decision:



Approve Staff's recommendation and determine the use of the property described as an unlawful accumulation of debris, refuse, and rubbish and an unlawful vacant structure in the staff report are a violation of Stanislaus County Code Section 9.04.020 and Section 2.93.030.

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.



Deny Staff's recommendation and determine the use of the property described as an unlawful accumulation of debris, refuse, and rubbish and an unlawful vacant structure in the staff report are not a violation of Stanislaus County Code Section 9.04.020 and Section 2.93.030.

NOW THEREFORE, the Nuisance Abatement Hearing Board orders the Director to forward these findings and conclusions and its recommended decision to the Stanislaus County Board of Supervisors within 30 days.

Dated: March 24, 2011



Greg Pires, Chair

**Stanislaus County Nuisance Abatement Hearing Board**

It should be noted that on APR 26 2011 the Board of Supervisors will hear this matter as a consent item.

**Attachment "A"**

RE: File Number CE 09-0864  
Assessor's Parcel Number: 038-031-040  
Address: 124 PUEBLO AVE, MODESTO, CA

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

<b>Code Section Violation:</b>	<b>Corrective Action:</b>	<b>Compliance Date:</b>
§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. <b>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.</b>	12/29/2009
§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.	01/29/2010

Enclosures: Stanislaus County Code

**CE# 09-0864**

**124 Pueblo Ave.  
Modesto, CA**

1002

1010

1014

50 m

100 ft

1024

116

120

124

128

200

204

117

121

125

129

201

205





1

12/11/2009

2



12/11/2009

A black and white photograph showing a cluttered outdoor area. In the foreground, there is a large pile of debris, including a long wooden log, a piece of wood, and a white plastic bag. The ground is covered with tall grass and weeds. In the background, there is a fence and a house. A white box with the number '3' is in the upper right corner. A date stamp '12/11/2009' is in the lower right corner.

3

12/11/2009



4

02/01/2010

5

02/01/2010



6

02/18/2010



7

02/18/2010





8

03/29 2010



9

03/29/2010



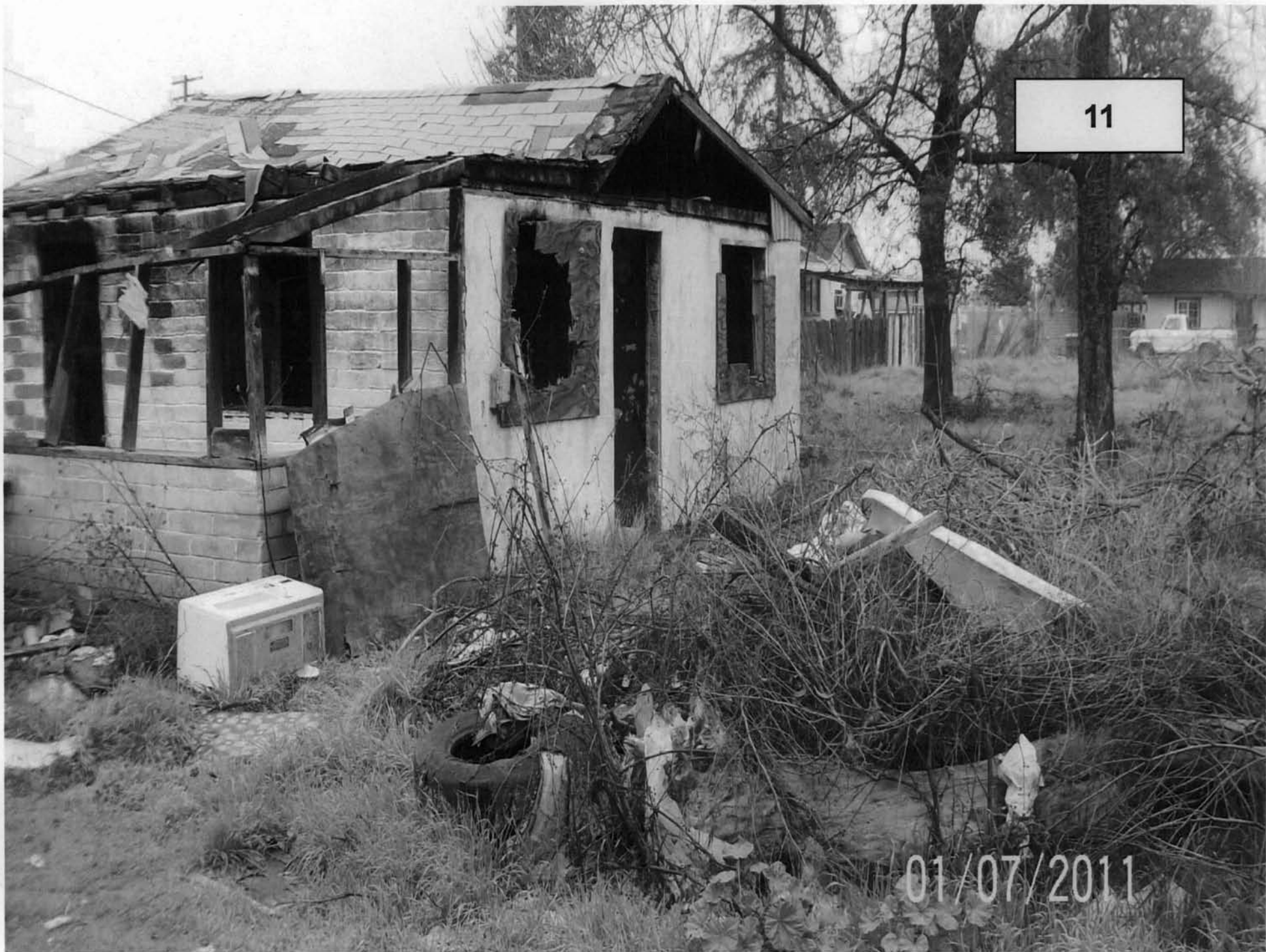
10

01/07/2011



11

01/07/2011



12

03/11/2011



13

03/11/2011





14

03/24/2011

15

03/24/2011

