

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

DEPT: Planning and Community Development

BOARD AGENDA # *D-3

Urgent

Routine

AGENDA DATE November 15, 2011

CEO Concurs with Recommendation YES NO

4/5 Vote Required YES NO

(Information Attached)

SUBJECT:

Approval to Adopt the Recommendations from the Nuisance Abatement Board's Public Hearing Regarding Dangerous Building Case DAD2010-00001 Located at 1421 Canal Street, Modesto, California

STAFF RECOMMENDATIONS:

1. Adopt the decision from the Nuisance Abatement Board to abate the dangerous buildings located at 1421 Canal Street, Modesto, California.
2. Approve the use of the Dangerous Building Abatement Fund for all costs associated with the abatement of the public nuisance.
3. Direct the Department of Planning and Community Development to recover costs by recording a "Notice of Abatement Lien" against the property in an amount not to exceed \$9,500 in the event the owners and/or interested parties fail to pay the costs incurred by the Dangerous Building Abatement Fund following approval of cost recovery by the Nuisance Abatement Board.

(Continued on page 2)

FISCAL IMPACT:

All costs associated with the remediation of dangerous buildings within Stanislaus County are funded through the use of the Dangerous Building Abatement Fund. The estimated cost to administer, demolish the structures, and remove all debris and rubbish located at 1421 Canal Street is \$9,500. Cost allocations from the Dangerous Building Abatement Fund are to be reimbursed through the use of an abatement lien or paid for by the responsible parties that have legal ownership of said parcel.

BOARD ACTION AS FOLLOWS:

No. 2011-711

On motion of Supervisor Chiesa, Seconded by Supervisor Withrow

and approved by the following vote,

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

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

STAFF RECOMMENDATIONS: (Continued)

4. Direct the Auditor-Controller to increase appropriations in the Planning and Community Development- Dangerous Building Abatement budget as detailed on the attached financial transaction form due to increased activity in the Dangerous Building Program.

DISCUSSION:

This agenda item is for the Board of Supervisors to consider the October 27, 2011, recommendation of the Nuisance Abatement Board, as attached herein.

The property is located at 1421 Canal Street, Modesto, California, which is zoned R-3 (Residential) and contains three structures on the parcel; one vacant fire damaged single family dwelling, one fire damaged detached three car garage, and an undamaged accessory structure. The following is the series of steps taken by County staff to bring corrective action to this property.

On August 8, 2010, the Stanislaus County Building Permits Division was notified in regards to two (2) structure fires on the said parcel. An inspection of the property was completed and revealed the roof, interior walls, and exterior walls of the dwelling and the detached garage were severely fire damaged. The Building Permits Division completed an investigation and found that the single family dwelling and detached garage structures meet the standard of a Dangerous Building and posted the structures "DO NOT ENTER, UNSAFE TO OCCUPY"

On August 12, 2010, notification was sent to the owners listed on the Assessor's records, Patrick David Lebow Jr. and Cynthia Lebow. The letter notified the owners that the structures had severe fire damage to such an extent that they cannot be economically repaired.

When such fire damage occurs on private property, Building Permits Division staff attempts to contact the owner and allow the owner ample time and every opportunity to remedy the nuisance prior to the County taking further legal action. Division staff did not receive any correspondence back from the owners. Another complaint was received by the Stanislaus County Building Permits Division on June 22, 2011, in regards to an additional fire that had taken place within the dwelling.

The structures were posted again the following day and an additional letter was sent to the owners listed on the Assessor's records, Patrick David Lebow Jr. and Cynthia Lebow. The letter notified the owners that the structures had been burned again and the damage to the structures is to such an extent that they cannot be economically repaired. The recommendation was made to demolish the remaining portion of the structures.

On June 25, 2011, Building Permits Division staff completed another document search and found the ETS Services, LLC was listed as Substitute of Trustee. Division staff then sent a letter that to ETS Services, LLC on June 25, 2011. There was uncertainty at that time if there was a "Notice of Default" on that parcel.

An additional site inspection was performed on July 25, 2011. The inspection revealed that the owners had made no attempt to remove the substandard structures. A second letter was sent by certified mail notifying the property owners, Patrick David Lebow Jr. and Cynthia Lebow that positive action must be taken to correct the unsafe and substandard conditions by August 25, 2011. It is noted within the letter that the Building Permits Division will start the legal action, after the mentioned date, in order to abate the unsafe and substandard structure that exists on the said property. The certified mail receipt was returned to indicate that the owners received and signed for the letter but no further correspondence was initiated by the owners.

An additional site inspection was performed on September 6, 2011. At that time, it was noted that no attempts to remove the substandard building had been made. A representative from the Stanislaus County Building Permits Division posted the structure with a "Notice and Order to Abate" and also sent a "Notice and Order to Abate" to the owner by certified mail. Immediately following the posting, the Stanislaus County Building Permits Division recorded a "Certificate of Existence of a Dangerous Building" with the Stanislaus County Clerk Recorder's Office, Doc #11-0073881-00.

On October 13, 2011, a "Notice of Public Hearing" letter was sent to the property owners and all parcel owners within 300 feet of this parcel. During the Nuisance Abatement Board meeting, held on October 27, 2011, the parcel owners failed to be present at the public hearing and the Nuisance Abatement Board approved the recommendation to abate the unsafe structures based on the evidence provided by Building Permits Division staff.

Division staff recommends that the Board of Supervisors adopt the Nuisance Abatement Hearing Board's recommendations to abate the nuisance, as attached herein. The Planning and Community Development Department, Building Permits Division, will contract through the approved methods and take the following actions to abate the nuisance in a timely manner:

1. Collect and dispose of all debris, refuse, and rubbish to an approved off-site location; and,
2. Demolish the unsafe structures.

POLICY ISSUES:

Approval of the staff recommendations is consistent with the Board's priorities of A Safe Community, A Healthy Community, and the Efficient Delivery of Public Services by protecting the public's interest and fostering pride in local communities.

Approval to Adopt the Recommendations from the Nuisance Abatement Board's Public Hearing Regarding Dangerous Building Case DAD2010-00001 Located at 1421 Canal Street, Modesto, California
Page 4

STAFFING IMPACTS:

Current staff within the Stanislaus County Building Permits Division perform the administration of nuisance abatement cases.

CONTACT PERSONS:

Steve Treat or Denny Ferreira, Department of Planning and Community Development
Telephone: (209) 525-6557

ATTACHMENTS:

1. Nuisance Abatement Hearing Board Decision and Inspection Report
2. Financial Transaction Form



NUISANCE ABATEMENT HEARING BOARD

DECISION

IN RE: 1421 CANAL STREET
Abatement Hearing No. DAD2010-00001


The Nuisance Abatement Hearing Board heard the above-referenced matter on **October 27, 2011**. 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 1421 Canal Street, Modesto, CA, in the unincorporated area of Stanislaus County, California, also identified as Assessor's Parcel Number 035-037-012, is zoned R-3, residential.
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 as identified in the title report. The title report lists **Patrick David Lebow Jr. and Cynthia Lebow** as the owner(s) of record.
4. All interested parties were served a Notice and Order 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 Nuisances 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.
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 nuisances 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 nuisances 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 nuisances 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: October 27, 2011


Steve Boyd, Chair
Stanislaus County Nuisance Abatement Hearing Board

It should be noted that on **November 15, 2011** the Board of Supervisors will hear this matter as a consent item.

ATTACHMENT "A"

**COUNTY OF STANISLAUS
PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
BUILDING PERMITS DEVISION
INSPECTION REPORT
CASE # DAD2010-00001**

BUILDING INSPECTOR:

Denny Ferreira

PROPERTY ADDRESS, APN AND LEGAL DESCRIPTION:

1421 Canal Street
Modesto, CA. 95354
APN 035-037-012

All that certain real property situated in the State of California, County of Stanislaus, Unincorporated Area and described as follows:

The South 100 feet of Lot 8 (measured along the West line of said Lot and parallel with the South line of said Lot) in Block 1 of Sierra Subdivision, as per Map filed February 20, 1930 in Volume 11 of Maps, Page 15, Stanislaus County Records

APN: 035-037-012

There is Three (3) structures on the parcel. One single family dwelling, one (1) detached 3 car garage and one (1) accessory building. According to the assessors records the structure was built in 1939. The parcel listed herin is located in a residential neighborhood currently zoned R-3 and has an estimated lot size of 0.20 acres. The physical location of this corner parcel is north of the Intersection of Canal street and Kerr Avenue and borders the westerly side of the Modesto Irrigation District Lateral where it intersects Canal street within the Sierra Subdivision.

PROPERTY OWNER INFORMATION:

Patrick David Lebow Jr. and Cynthia Lebow are the owners of record according to the Stanislaus County Tax Assessor's web site. The most current title report and Deed obtained from Stewart Title Company stated that the transfer of title to said owners was completed on March 19, 1999.

The beneficial interest under said deed of trust was assigned to Mortgage Electronic Registration Systems, Inc., by assignment recorded April 21, 2006, as Instrument 2006-0060666 of Official Records.

A substitution of Trustee which names Executive Trustee Services, LLC dba ETS Services, LLC as trustee recorded July 28, 2008, as Instrument 2008-0081450 of Official Records

In accordance to the title report no "Notice of default" has been filed upon such property.

HISTORY AND CASE INFORMATION:

AUGUST 8, 2010

- Stanislaus County Building Permits Division was notified in regards to two (2) structure fires on said parcel.
- An Inspection of the property was completed and immediately posted. The roof, interior walls and exterior walls of the dwelling and the detached garage were severely fire damaged.
- The Building Permits Division completed an investigation and found that the structure meets the standard of a Dangerous Building and posted the structure "DO NOT ENTER, Unsafe to Occupy"

AUGUST 12, 2010

- A letter was sent to the owner(s) listed on the assessor's records, Paterick David Lebow Jr. and Cynthia Lebow. The letter notified the owner that the structure had been burned and the damage to the structure is to such an extent that it is not repairable. The recommendation was made to demolish the remaining portion of the structures.

JUNE 22, 2011

- The Stanislaus County Building Permits Division was contacted in regards to an additional fire that had taken place within the dwelling.

JUNE 23, 2011

- The structures were re-posted and an additional letter was sent to the owner(s) listed on the assessor's records, Patrick David Lebow Jr. and Cynthia Lebow. The letter notified the owner that the structure had been burned and the damage to the structure is to such an extent that it is not repairable. The recommendation was made to demolish the remaining portion of the structures.

June 25, 2011

- The same letter that notified the parcel owners of the conditions that existed on the property, was also sent to ETS Services, LLC because it was unknown at that time if there was a "Notice of Default" on that parcel.

JULY 25, 2011

- Site Inspection performed. No attempt to remove the substandard building had been made.
- A second letter was sent by certified mail notifying the property owner, Patrick David Lebow Jr. and Cynthia Lebow, that positive action must be taken to correct the unsafe and substandard conditions by August 25, 2011. It is noted within the letter that the Building Permits Division will start the legal action, after the mentioned date, in order to abate the unsafe and substandard structure that exists on said property.

July 27, 2011

- Certified mail receipt was returned to indicate that the owner received and signed for the letter.

AUGUST 25, 2011

- Lot Book Guarantee was ordered from Stewart Title.

SEPTEMBER 6, 2011

- Lot Book Guarantee received.
- Site Inspection performed. No attempt to remove the substandard building had been made.
- Posted the structure with a "Notice and Order to Abate" and also sent a "Notice an Order to Abate" to the owner by Certified Mail.

SEPTEMBER 7, 2011

- The Stanislaus County Building Permits Division recorded a "Certificate of Existence of a Dangerous Building" with the Stanislaus County Clerk Recorder's Office. Doc #11-0073881-00

ENFORCEMENT ACTION TAKEN:

SEPTEMBER 6, 2011

- Posted "Notice and Order" on structure; per Chapter 2 (2.92.030) of Title 16 and Title 16 (16.25.30);
- Certified letter sent with "Notice and Order"; per Chapter 2 (2.92.030) of Title 16 and Title 16 (16.25.30);

SEPTEMBER 7, 2011

- Recorded "Certificate of Existence of Substandard and Dangerous Building" per Title 16 (16.25.30).

OCTOBER 13, 2011

- Notice of Public Hearings sent to owner and all parcel owners within 300 feet. Per Chapter 2 (2.92.070:A:1) of Title 16

VIOLATIONS:

Based upon the conditions I observed at the property and reviewing county files, I found the property owner violated the following provisions of the Stanislaus County Code and Business & Professions Code:

Unsafe structure found to be dangerous to the life, health, property or safety of the public. Sec. 16.25 Stanislaus County Code, Sec. 108.1.1 Unsafe Structures 2006 International Property Maintenance Code.

The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure. Section 16.25 Stanislaus County Code, Sec. 110 International Property Maintenance Code.

Any use or condition of Property that is dangerous to human life, Unsafe or detrimental to the public health or safety Sec. 2.92.010 of the Stanislaus County Code.

DECLARATION:

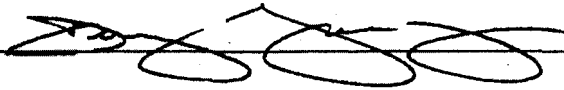
I declare under penalty of perjury that the forgoing is true and correct.

DATE: 10/27/2011

Denny Ferreira

OFFICER

Approved: _____



Building Inspector

