

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

DEPT: Environmental Resources

BOARD AGENDA # \*B-3

Urgent

Routine

AGENDA DATE January 15, 2013

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval to Adopt the Recommended Decision of the Nuisance Abatement Hearing Board Regarding CE No. 11-0424 at 736 Elm Avenue, Modesto, California

STAFF RECOMMENDATIONS:

Adopt the recommended decision of the Nuisance Abatement Hearing Board regarding nuisances at 736 Elm Avenue, Modesto, California, as set forth in Attachment 1.

FISCAL IMPACT:

There is a potential fiscal impact if the property owner(s) fails 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. 2013-25

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

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

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  
CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval to Adopt the Recommended Decision of the Nuisance Abatement Hearing Board  
Regarding CE No. 11-0424 at 736 Elm Avenue, Modesto, California

**DISCUSSION:**

The Code Enforcement Unit responds to complaints throughout the unincorporated area of Stanislaus 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 Civil 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 March 27, 2012, in response to a complaint regarding a vacant structure, Code Enforcement staff conducted an inspection at 736 Elm Avenue, Modesto, California, and verified the property contained one vacant and unsecured structure that had a missing door and several broken windows, providing uncontrolled access into the interior. 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.

Wallie Samim is the current owner of record according to the County Assessor's Office, the County Clerk-Recorder's Office, and a title report obtained from Stewart Title Company. The property owner has made no attempts to contact Code Enforcement staff and has refused to comply with the Notice and Order to Abate.

On December 13, 2012, 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 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.

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 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. 11-0424 at 736 Elm Avenue, Modesto, California, 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.

Approval to Adopt the Recommended Decision of the Nuisance Abatement Hearing Board  
Regarding CE No. 11-0424 at 736 Elm Avenue, Modesto, California

**STAFFING IMPACTS:**

If the owner(s) fail to comply, Code Enforcement staff will board all unsecured windows and doors.

**CONTACT PERSON:**

Jami Aggers, Interim Director of Environmental Resources. Telephone: 209-525-6770



## **NUISANCE ABATEMENT HEARING BOARD**

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### **RECOMMENDED DECISION**

**IN RE: 736 Elm Avenue, Modesto, CA  
Abatement Hearing No. CE# 11-0424**

The above referenced matter came before the Nuisance Abatement Hearing Board for hearing on December 13, 2012. 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 736 Elm Avenue, Modesto, CA, in the unincorporated area of Stanislaus County, California, also identified as Assessor's Parcel Number 029-020-013, is zoned R-1, Single-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 vacant structure in the staff report is a violation of Stanislaus County Code Section 2.93.030, and Section 2.93.040.
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 vacant structure in the staff report is not a violation of Stanislaus County Code Section 2.93.030, and Section 2.93.040.

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: December 13, 2012



**Ron Peterson, Chair**

**Stanislaus County Nuisance Abatement Hearing Board**

It should be noted that on JAN 15 2013 the Board of Supervisors will hear this matter as a consent item.

**Attachment "A"**

RE: File Number CE 11-0424  
Assessor's Parcel Number: 029-020-013  
Address: 736 ELM 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>	04/12/2012

**CC:** Wallie Samim, 1729 Sparrow Hawk St, Manteca, CA 95337

Northwest Trustee Services, Inc., 1241 E. Dyer Rd, STE 250, Santa Ana, CA 92705

Custom Recording Solutions, 2550 N. Redhill Ave, Santa Ana, CA 92705

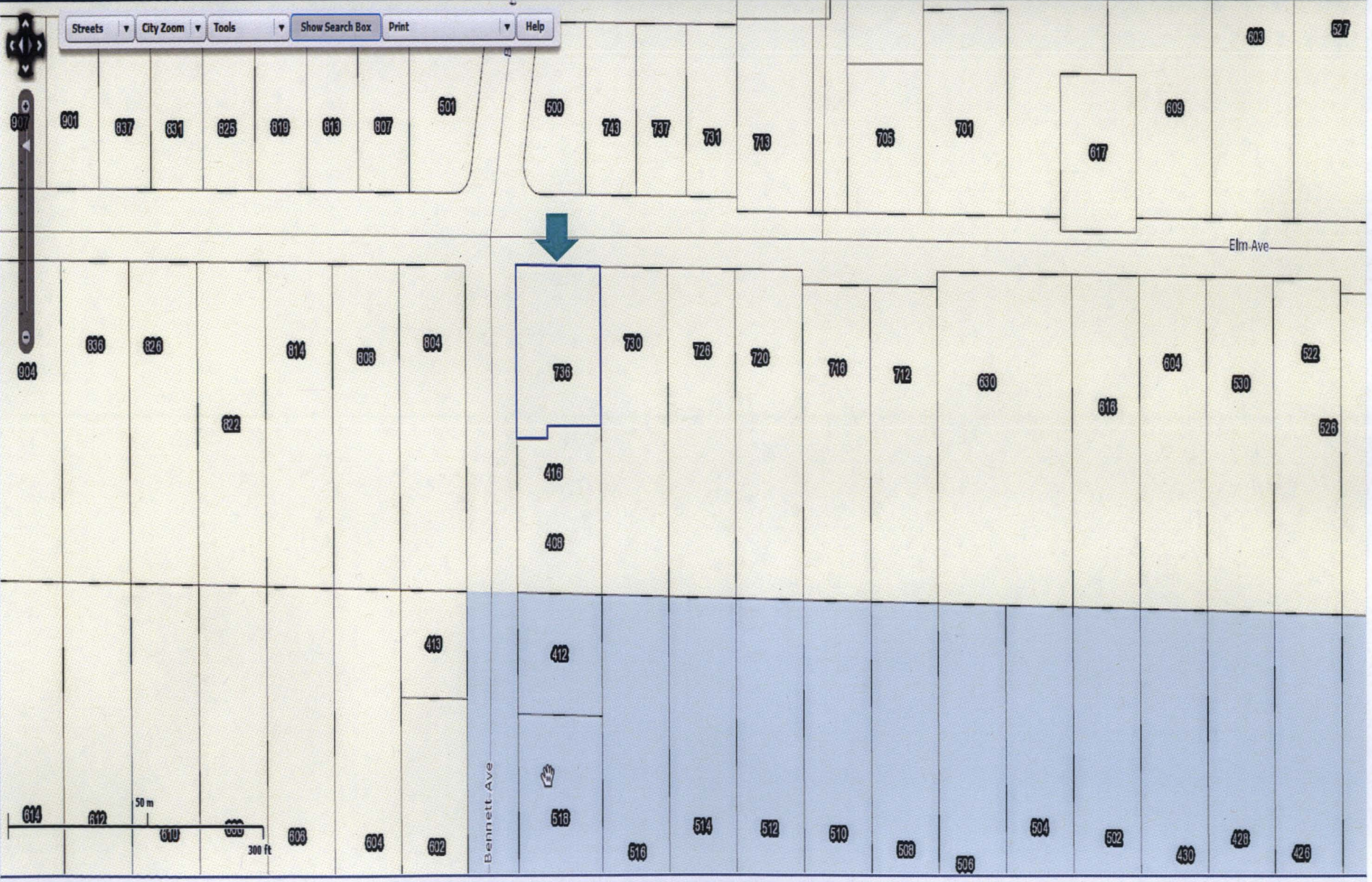
Bank of America, Mail Stop NC4-105-02-48, 4161 Piedmont Parkway, Greensboro, NC 27410

**Enclosures:** Stanislaus County Code

**CE# 11-0424**

**736 Elm Avenue**

**Modesto, CA 95351**





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12/12/2011



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03/27/2012



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05/23/2012



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07/30/2012

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09/26/2012

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10/31/2012



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11/27/2012



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12/13/2012

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12/13/2012

