

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

DEPT: Environmental Resources

BOARD AGENDA # *B-2a

Urgent Routine

AGENDA DATE April 23, 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. 11-0421 at 1405 Garden Avenue, Modesto, California

STAFF RECOMMENDATIONS:

Adopt the recommended decision of the Nuisance Abatement Hearing Board regarding nuisances at 1405 Garden 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. 2013-166

On motion of Supervisor Withrow, Seconded by Supervisor Monteith
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) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval to Adopt the Recommended Decision of the Nuisance Abatement Hearing Board
Regarding CE No. 11-0421 at 1405 Garden 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 December 8, 2011, in response to a complaint regarding refuse and debris, Code Enforcement staff conducted an inspection at 1405 Garden Avenue, Modesto, California, and verified the property contained an accumulation of debris, refuse, rubbish and junk in excess of 200 square feet. 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.

The Heirs of Jesse O'Daniel and Pearlie O'Daniel are the current owner(s) of record according to the County Assessor's Office, the County Clerk-Recorder's Office, and a title report obtained from Stewart Title Company. According to Betty Machado, she is the only surviving heir and does not have the financial means to clean-up the property.

On March 28, 2013, 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 removing and properly disposing of all debris, refuse, rubbish and junk in excess of 200 square feet.

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:

The recommended action support the Boards' priorities of A Safe Community, A Healthy Community, and the Efficient Delivery of Public Services by improving the quality of life and protecting the health and safety of the community.

Approval to Adopt the Recommended Decision of the Nuisance Abatement Hearing Board
Regarding CE No. 11-0421 at 1405 Garden Avenue, Modesto, California

STAFFING IMPACTS:

If the owner(s) fail to comply, Code Enforcement staff will contract with a company to dispose of any material, equipment, vehicles or other personal property.

CONTACT PERSON:

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



NUISANCE ABATEMENT HEARING BOARD

RECOMMENDED DECISION

**IN RE: 1405 Garden Avenue, Modesto, CA
Abatement Hearing No. CE# 11-0421**

The above referenced matter came before the Nuisance Abatement Hearing Board for hearing on March 28, 2013. 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 1405 Garden Avenue, Modesto, CA, in the unincorporated area of Stanislaus County, California, also identified as Assessor's Parcel Number 037-035-040, is zoned R-2, Medium Density 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 junkyard and an unlawful accumulation of debris, refuse, and rubbish in the staff report are a violation of Stanislaus County Code Section 21.32.020, Section 21.16.040, and Section 9.04.020.
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 junkyard and an unlawful accumulation of debris, refuse, and rubbish in the staff report are not a violation of Stanislaus County Code Section 21.32.020, Section 21.16.040, and Section 9.04.020.

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 28, 2013



Richard Gibson, Chair
Stanislaus County Nuisance Abatement Hearing Board

It should be noted that on APR 23 2013 the Board of Supervisors will hear this matter as a consent item.

Attachment "A"

RE: File Number CE 11-0421
Assessor's Parcel Number: 037-035-040
Address: 1405 GARDEN AVE, 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: |
|--|--|-------------------------|
| §21.32.020 and §21.16.040 of the Stanislaus County Code. Unlawful junkyard/accumulation of junk on the premises. | Removing junk in excess of 200 square feet from the premises. | 01/26/2012 |
| §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. | 01/26/2012 |

CC: 1405 Garden Ave, Modesto
Enclosures: Stanislaus County Code

CE# 11-0421

1405 Garden Avenue

Modesto, CA 95351

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12/08/2011

2

12/08/2011



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03/13/2012

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04/24/2012

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06/20/2012



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06/20/2012

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1970-14

11/05/2012

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01/09/2013

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02/14/2013

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03/06/2013

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03/28/2013



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03/28/2013