

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

DEPT: Environmental Resources

BOARD AGENDA #: *B-4 (a)

AGENDA DATE: February 14, 2017

SUBJECT:

Approval to Adopt the Recommended Decision of the Nuisance Abatement Hearing Board Regarding the Property at 719 Anthony Avenue, Modesto, California

BOARD ACTION AS FOLLOWS:

No. 2017-61

On motion of Supervisor Olsen, Seconded by Supervisor Withrow
and approved by the following vote,

Ayes: Supervisors: Olsen, Withrow, Monteith, DeMartini, 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: Elizabeth A. King
ELIZABETH A. KING, Clerk of the Board of Supervisors

File No.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
AGENDA ITEM**

DEPT: Environmental Resources
Urgent Routine

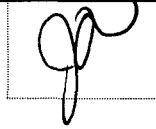
BOARD AGENDA #: *B-4(a)

AGENDA DATE: February 14, 2017

CEO CONCURRENCE:



4/5 Vote Required: Yes No



SUBJECT:

Approval to Adopt the Recommended Decision of the Nuisance Abatement Hearing Board Regarding the Property at 719 Anthony Avenue, Modesto, California

STAFF RECOMMENDATIONS:

1. Adopt the recommended decision of the Nuisance Abatement Hearing Board regarding the property at 719 Anthony Avenue, Modesto, California, CE No. 16-0045, as set forth in Attachment 1.

DISCUSSION:

The Code Enforcement Unit (CEU) responds to complaints throughout the unincorporated area of Stanislaus County and attempts to gain voluntary compliance through education and personal contact 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 October 21, 2015, the Department of Environmental Resources (DER) received a complaint regarding a property littered with trash, debris and rubbish. The complaint was verified and after unsuccessful attempts to gain voluntary compliance, a Notice and Order to Abate was issued to the property owner on April 14, 2016. The person responsible for committing the nuisance has failed to correct the violation within the time specified in the Notice and Order to Abate, which was served by posting a copy in plain view upon the subject property on May 9, 2016. Furthermore, the person with a recorded interest in the subject property has made no attempt to contact DER and has refused to comply with the Notice and Order to Abate. Several compliance inspections were performed at the property between June 15, 2016 and January 11, 2017. These compliance inspections revealed that the property remained in violation and no compliance efforts had been initiated. Failure to comply with the Notice and Order to Abate resulted with a Notice of Non-compliance being recorded with the Clerk-Recorder's Office and three Administrative Civil Citations being issued on June 16, 2016, August 11, 2016, and September 15, 2016.

Sargon Youkana 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

Approval to Adopt the Recommended Decision of the Nuisance Abatement Hearing Board Regarding the Property at 719 Anthony Avenue, Modesto, California

person with a recorded interest in the subject property was notified of this action and has refused to comply with the Notice and Order to Abate.

On January 26, 2017, 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 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 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 all the debris, refuse, and rubbish.

The cost of the abatement will be charged to the property owner and, if the responsible person 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 Board of Supervisors' approval of a recommended decision of the Nuisance Abatement Hearing Board is necessary before a forced clean-up action can be initiated pursuant to Stanislaus County Code Section 2.92.010. Continuing violations that exist on properties may constitute a public nuisance if they remain unabated.

FISCAL IMPACT:

There is a potential fiscal impact if the property owner 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 owner fails to abate the nuisance. However, if a forced abatement is necessary, the cost will be charged to the property owner and if the responsible person fails to pay the cost of abatement, the case will be turned over to Revenue Recovery. If the charges ultimately remain unpaid, a Notice of Abatement Lien will be recorded against the property. The Department obtained a preliminary estimate cost of \$5,000 for the cleanup of the property.

Cost of recommended action:	\$	5,000
Source(s) of Funding:		
Property Owner	\$	5,000
Funding Total:	\$	5,000
Net Cost to County General Fund	\$	-

Fiscal Year:	2016/2017
Budget Adjustment/Appropriations needed:	No

Approval to Adopt the Recommended Decision of the Nuisance Abatement Hearing Board
Regarding the Property at 719 Anthony Avenue, Modesto, California

BOARD OF SUPERVISORS' PRIORITY:

The recommended action supports the Board's 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.

STAFFING IMPACT:

If the owner fails to comply, Code Enforcement staff will properly dispose of all the junk, debris, refuse, and rubbish.

CONTACT PERSON:

Jami Aggers, Director of Environmental Resources.

Telephone: 209-525-6770

ATTACHMENT(S):

1. Nuisance Abatement Hearing Board, Recommended Decision dated January 26, 2017 (3 pages)
2. Site Map
3. Photographs of 719 Anthony Avenue, Modesto, California (APN 038-016-021) (10 photographs)

Attachment 1



NUISANCE ABATEMENT HEARING BOARD

RECOMMENDED DECISION

**IN RE: 719 Anthony Avenue, Modesto, CA
Abatement Hearing No. CE# 16-0045**

The above referenced matter came before the Nuisance Abatement Hearing Board for hearing on January 26, 2017. 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 719 Anthony Avenue, Modesto, CA, in the unincorporated area of Stanislaus County, California, also identified as Assessor's Parcel Number 038-016-021, is zoned C-2, General Commercial 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 are a violation of Stanislaus County Code 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 accumulation of debris, refuse, and rubbish in the staff report are not a violation of Stanislaus County Code 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: January 26, 2017



Tom Orvis, Chair

Stanislaus County Nuisance Abatement Hearing Board

It should be noted that on February 14, 2017 the Board of Supervisors will hear this matter as a consent item.

Attachment "A"

RE: File Number CE 16-0045

Assessor's Parcel Number: 038-016-021

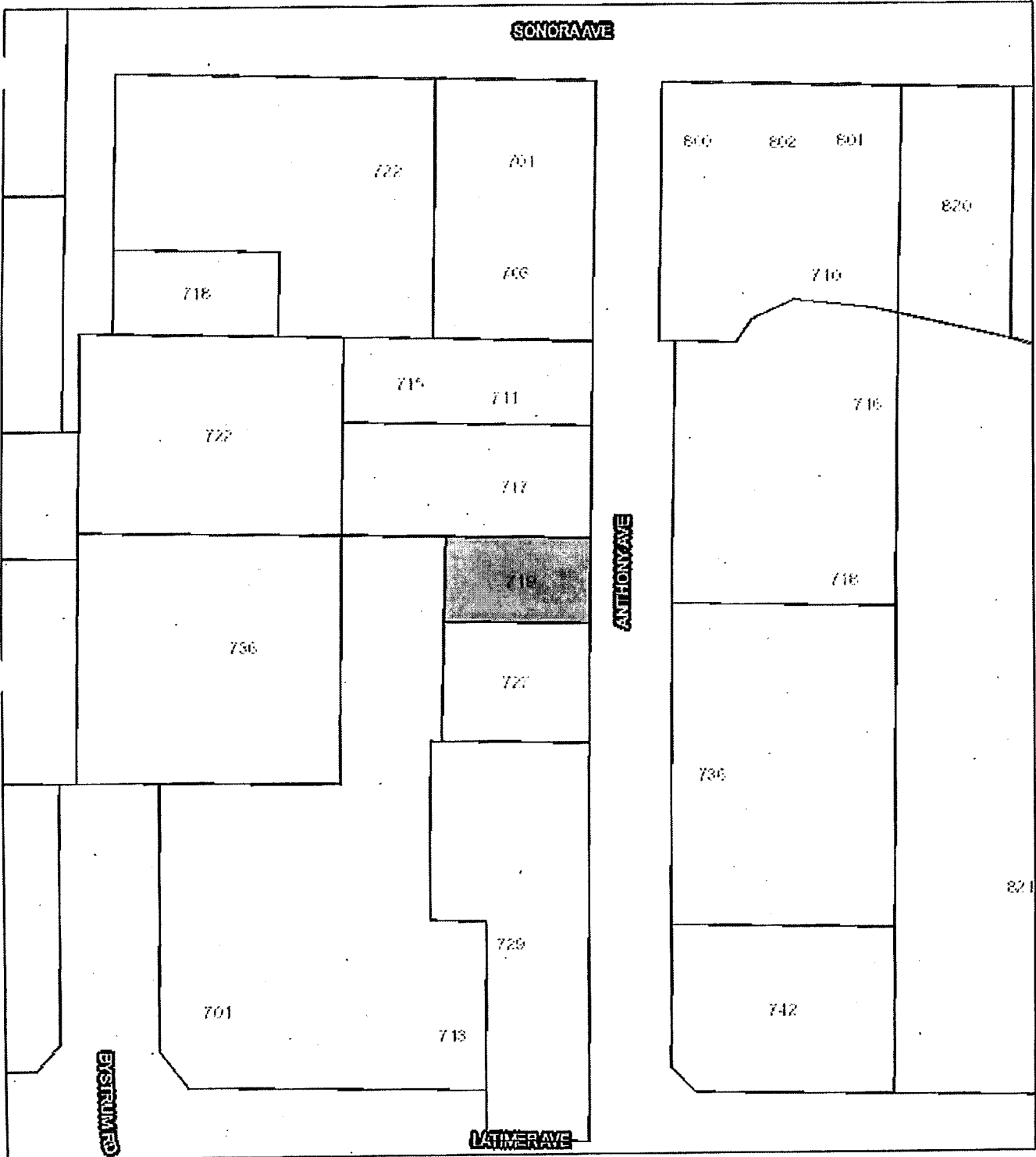
Address: 719 ANTHONY AVE, MODESTO, CA

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

Code Section Violation:	Corrective Action:	Compliance Date:
§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.	05/29/2016

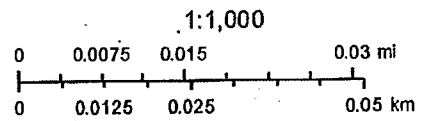
Enclosures: Stanislaus County Code

Attachment 2



January 11, 2017

- | | | |
|--------------------|-----------------------------------|-----------|
| | T0dc9a99bf7824c81a7e028f508bfe408 | MODESTO |
| | FeatureLayer32 | NEWMAN |
| | Address | OAKDALE |
| | RailRoads | PATERSON |
| City Limits | | RIVERBANK |
| | CERES | TURLOCK |
| | HUGHSON | WATERFORD |



Attachment 3



PHOTOGRAPH

1

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2

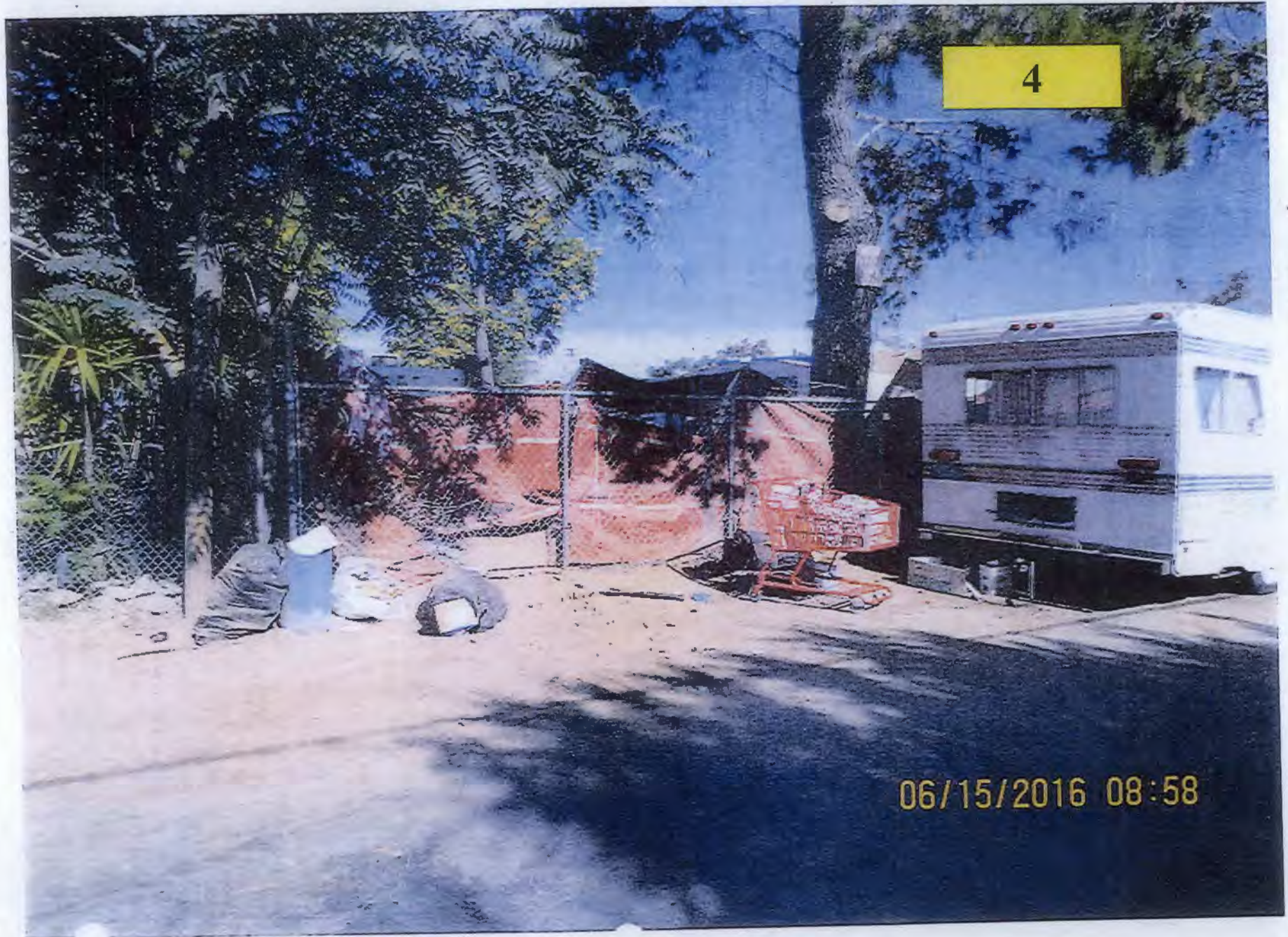
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PHOTOGRAPH 2



3

06/15/2016 08:57



4

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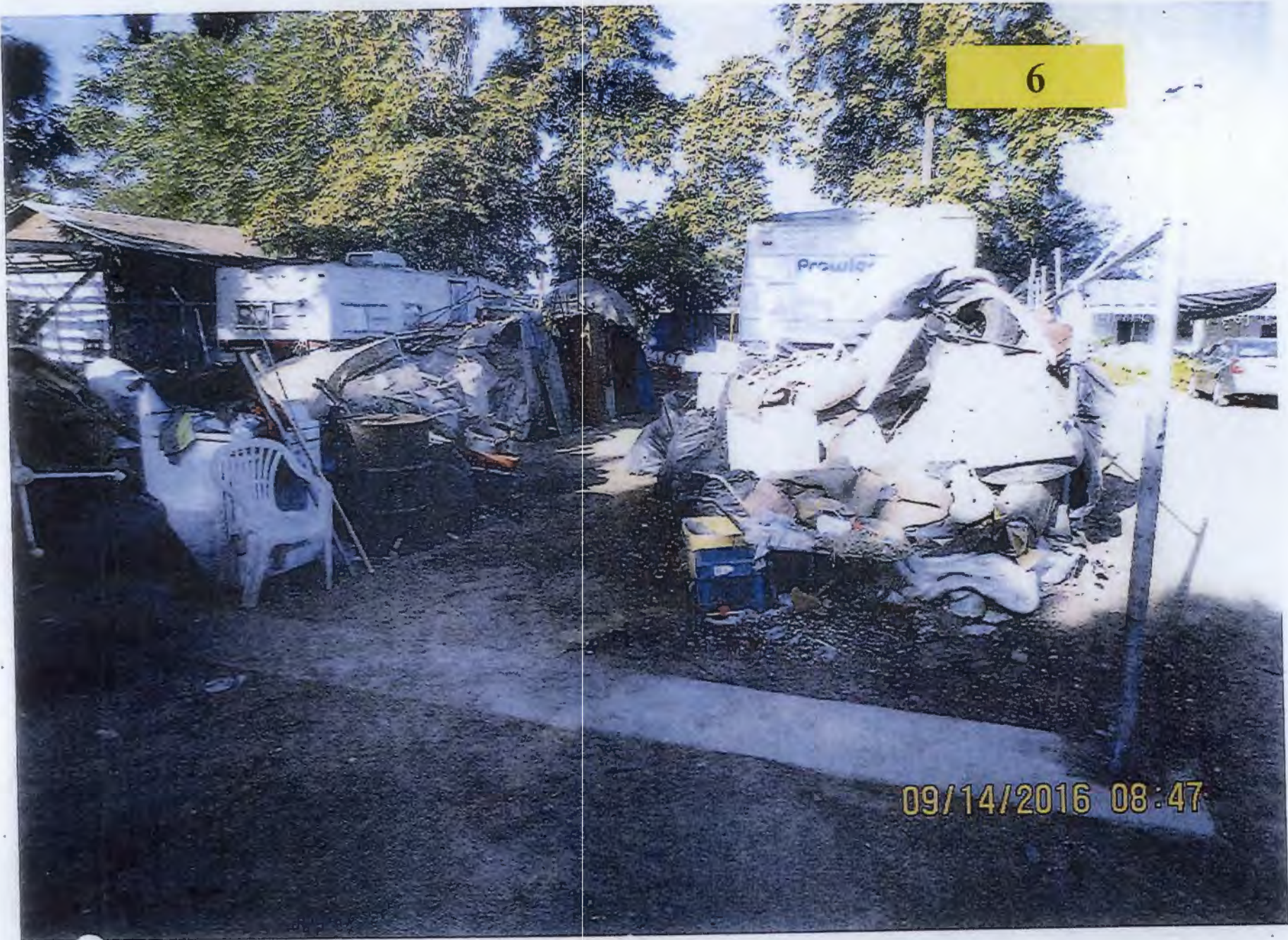
PHOTOGRAPH 4



5

08/10/2016 08:45

PHOTOGRAPH 5



PHOTOGRAPH 6

09/14/2016 08:47



7

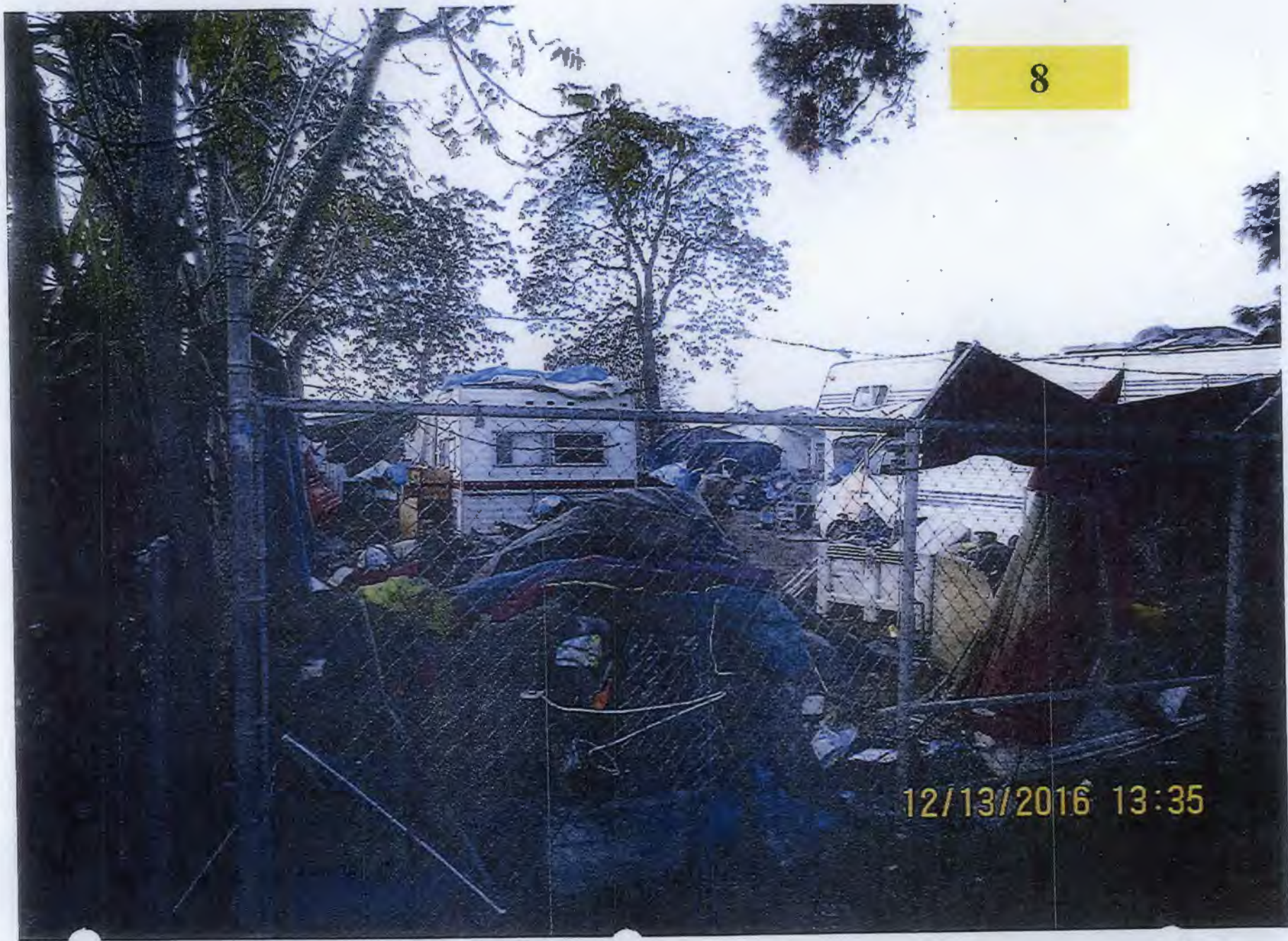
PHOTOGRAPH 7

12/13/2016 13:34

8

PHOTOGRAPH 8

12/13/2016 13:35



9

COUNTY OF STANIS. AUS



CLUDY

NOTICE OF HEARING TO ABATE NUISANCE

TO: Sergio Youvana
140 Midpipe Way
Modesto, CA 95354

RE: P# No. DLR-CE 160045
Assessor's Parcel No. 009176000
Address: 710 Anthony Avenue
Modesto, CA 95354

NOTICE IS HEREBY GIVEN TO APPEAR, before the Hearing Commission, on the date and time specified below, at the address specified above, to answer the charges of nuisance and to show cause why such nuisance should not be abated by the undersigned enforcement officer.

At the time and place specified in the notice, the Hearing Commission or hearing board appointed to receive the business of the County of Stanislaus County does hereby certify that the abatement of a nuisance existing on the above property shall proceed to hear the testimony of the undersigned enforcement officer, the owner or occupant, the neighbors of the property or his or her representatives and the neighbors of other interested persons, including the contractor, contractor's employees, the abatement crew or abatement and other matters which the Hearing Officer or Hearing Board may deem pertinent.

Upon the conclusion of the hearing, a determination will be rendered as to whether a nuisance exists and whether the hearing board may order you to abate the nuisance. If a nuisance is found to exist, the Hearing Officer or hearing board may order you to abate the nuisance, including the requirements of such abatement and the time within which such abatement is to be completed. If you do not comply with the terms of such order, the undersigned enforcement officer shall be authorized to cause such nuisance to be abated by the County to abate the nuisance. The materials, equipment, set-ups or other personal property located on the property which the enforcement officer is authorized to take or remove shall be stored in the same manner as such County personal property, and the truck(s) from which such materials are removed shall be stored in the County personal yard and shall stay on the lot of abatement.

For further information concerning this notice, please contact the Department of Environmental Resources, 1800 Commonwealth Way, San Jose, CA 95132 or call (408) 299-0700.

Date: January 11, 2017

DEPARTMENT OF ENVIRONMENTAL RESOURCES

By: *Raff D. Sanchez*

NOELI BRAC
CODE ENFORCEMENT UNIT

Please contact the Clerk of the Board of Supervisors if you wish to file an appeal.

01/11/2017 09:43

PHOTOGRAPH 9



10

PHOTOGRAPH 10

01/11/2017 09:43