

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

DEPT: ENVIRONMENTAL RESOURCES *KMW*

BOARD AGENDA # *B-9

Urgent Routine x

AGENDA DATE June 5, 2001

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

4/5 Vote Required YES NO X

SUBJECT:

ADOPT THE RECOMMENDATIONS OF THE NUISANCE ABATEMENT HEARING BOARD REGARDING ABATEMENT HEARING NO. 2001-07; 2513 W. HATCH ROAD, MODESTO

STAFF
RECOMMEN-
DATIONS:

ADOPT THE RECOMMENDATIONS OF THE NUISANCE ABATEMENT HEARING BOARD REGARDING ABATEMENT HEARING NO. 2001-07; 2513 W. HATCH ROAD, MODESTO

FISCAL
IMPACT:

There is no fiscal impact.

BOARD ACTION

No. 2001-379

On motion of Supervisor Simon, Seconded by Supervisor Caruso
and approved by the following vote,

Ayes: Supervisors: Mayfield, Blom, Simon, Caruso, and Chair Paul

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) Denied

3) Approved as amended

Motion:

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

By: Christine Ferraro Deputy

File No.

ADOPT THE RECOMMENDATIONS OF THE NUISANCE ABATEMENT HEARING BOARD REGARDING ABATEMENT HEARING NO. 2001-07; 2513 W. HATCH ROAD, MODESTO

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DISCUSSION:

This agenda item is important because it ensures a safe and healthy community, promotes efficient government operation, serves the public's interest in a cost-effective manner, and fosters pride in our local community. The item before the Board today is to adopt, modify, or reject the recommendations of the Planning Commission acting as the Nuisance Abatement Hearing Board, as presented in Attachment A.

This case was one of the earliest cases referred to the Code Enforcement task force upon its formation. Several attempts were made to work with the owner to abate this problem in the early stages of enforcement. Some innovations were developed, where the County and the owner partnered to try to achieve acceptable results; however, no lasting or continuous progress was ever noted.

Enforcement activity has been confused and hampered by the complicated ownership situation and the use of three parcels, used as one, but with a different ownership scheme. The community residents have been vocal about their opposition to such an operation existing in their neighborhood, but at the same time have been understanding of the difficult nature of the enforcement activity.

The property was, and is, noted to contain large amounts of refuse material including assorted debris, junk, tires, auto parts, dismantled autos, etc. All of this material, except for an area not to exceed 200 square feet, shall be required to be removed.

The history of this case is disclosed in Attachment B.

Should the Board decide to adopt the Nuisance Abatement Hearing Board's recommendations, as detailed in Attachment A, Timothy Sinner and Leonardo A. Vasquez will have to abate the nuisance within two weeks after the Board of Supervisor's decision by:

1. Cause for the proper removal of all junk, appliances, building material, refuse and debris.
2. Cause for proper removal of refuse to an approved location.

ADOPT THE RECOMMENDATIONS OF THE NUISANCE ABATEMENT HEARING BOARD REGARDING ABATEMENT HEARING NO. 2001-07; 2513 W. HATCH ROAD, MODESTO

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3. Maintain mandatory weekly refuse disposal service with the designated franchise refuse hauler.
4. Restore property to conformity with all applicable county codes.

Should the owners fail to comply within that two-week period, the County will proceed with the abatement process through a forced clean-up action, whereby the property will be cleared of all contributing factors to the public nuisance. The cost of the abatement will be charged to the owners. If the responsible persons fail to pay the cost of abatement, a Notice of Abatement Lien will be recorded against the property.

If the Board adopts the Nuisance Abatement Hearing Board's recommendations, this public nuisance can be abated in a timely and efficient manner thus providing for a safe and healthy community, allowing the public to take greater pride in the areas they live in and frequent.

POLICY
ISSUES:

The Board should decide if it should accept, modify, or reject the written recommendation as presented in Decision of Abatement Hearing No. 2001-07. Attachment A. Acceptance of this recommendation is consistent with the Board's policy to provide: a) safe and healthy communities; b) community service delivery; c) efficient government operations.

STAFFING
IMPACT:

None.



**STANISLAUS COUNTY
NUISANCE ABATEMENT HEARING BOARD**

DECISION

IN RE: 2513 W. Hatch Road, Modesto, CA.
Abatement Hearing No. 2001-07

The above-referenced matter was heard on **May 3, 2001** by the Stanislaus County Planning Commission sitting as the Nuisance Abatement Hearing Board. Upon consideration of oral and documentary evidence presented at the hearing, the Board finds and determines as follows:

1. The property located at **2521 W. Hatch Road, Modesto**, in the unincorporated area of Stanislaus County, California, also identified as Assessor's Parcel Number **017-24-27/28**, respectively (the "Property"), is zoned **R-A (general definition, i.e. rural residential)**.
2. County staff confirmed the existence of and presented evidence of violations of Stanislaus County Code occurring on the Property.
3. All owners of record ("owners"), tenants and others holding an interest of record in the Property (collectively, the "interested Parties") are identified and listed in the title report contained in the staff report regarding this matter. The title report lists **Timothy L. Sinner and Leonardo A. Vasquez**, as the owners of record for the Property.
4. 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.
5. County staff has attempted to obtain voluntary compliance by the Interested Parties, and all Interested Parties have had significant and reasonable time to correct all violations but have refused and/or failed to meet the deadlines prescribed by the Notice.
6. The owners have the legal responsibility for maintenance of the Property in conformance with 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 Nuisance pursuant to Stanislaus County Code Section 2.92.070.
8. Based on the evidence and testimony presented at the hearing, which is incorporated

Stanislaus County Nuisance Abatement Hearing Board
Abatement Hearing No. 2001-07

herein by reference, there is substantial evidence that violations of the Stanislaus County Code, as set forth in the staff report for this matter, still exist 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:

10. Order the Owner and Interested Parties to abate the nuisance on the Property within two weeks from the date of the Board's decision by correcting the condition or use of the Property as set forth in the staff report on this matter.
11. Authorize the County to abate the nuisance and to charge the cost of abatement by the County to the Owners if the Owner or other Interested Party does not abate the nuisance within the specified time period.
12. 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 cost of disposal to the Owners as part of the cost of abatement.
13. Order a Notice of Abatement Lien be recorded against the Property if the Owner fails to pay the cost of abatement upon demand by the County.

Dated: **May 3, 2001**



Kathleen Griffin, Chairman
Nuisance Abatement Hearing Board

COUNTY OF STANISLAUS



NOTICE OF HEARING TO ABATE NUISANCE

TO: TIMOTHY SINNER, LEONARDO A. VASQUEZ; Joint Tenants
2521 W HATCH ROAD
MODESTO CA 95358

RE: File No. NAHB 2001-07
Assessor's Parcel No. 017-24-28
Address: 2513 W. Hatch Road
Modesto CA

NOTICE IS HEREBY GIVEN TO APPEAR, before the Planning Commission sitting as the Nuisance Abatement Hearing Board on **May 3, 2001**, at the hour of **6:00 p.m.**, or as soon thereafter as the matter may be heard, in the Joint Chambers, Basement Floor, 1010 Tenth Street, Modesto, California, then and there to show cause or give legal reason, if any there be, why such conditions listed on Attachment A should not be condemned as a nuisance and why such nuisance should not be abated by the undersigned enforcement official.

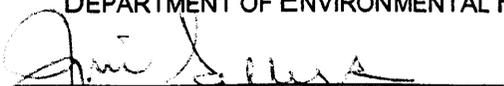
At the time and place specified in this Notice, the Hearing Officer or Hearing Board appointed to review the decision of the Director of the responsible County department ordering cessation or abatement of a nuisance occurring at or upon the subject property, shall proceed to hear the testimony of the undersigned enforcement official, his or her deputies, the testimony of the owner or his or her representatives, and the testimony of other competent persons concerning the conditions constituting such nuisance, the estimated cost of abatement and other matters which the Hearing Officer or Hearing Board may deem pertinent.

Upon the conclusion of the hearing, a decision will be rendered as to whether substantial evidence supports a determination that a nuisance exists upon the property. If a nuisance is found to exist, the Hearing Officer or Hearing Board may order you to abate the nuisance, prescribing the requirements of such abatement and prescribing a reasonable period of time for the completion of such abatement. Such order may further provide that, in the event that such abatement is not commenced, prosecuted or completed within the terms set in the order, the undersigned enforcement official shall be authorized to abate said nuisance and to recover the costs incurred by the County to abate the nuisance. The materials, equipment, vehicles or other personal property or materials contained in the nuisance abated by the enforcement official may be disposed of in any manner deemed appropriate by the enforcement official, including, but not limited to sale or transfer to another department in the same manner as surplus County personal property, and the proceeds from such sale shall be paid into the County general fund and shall offset the cost of abatement.

For further information concerning this Notice, please contact the Department of Environmental Resources, 3800 Cornucopia Way, Suite C, Modesto, California 95358 or call (209) 525-6700.

Dated: April 18, 2001

DEPARTMENT OF ENVIRONMENTAL RESOURCES


Jim Sellers, Program Manager

ATTACHMENT A

RE: File No. 2001-07
Assessor's Parcel No. 017-24-27/28
Address: 2513 W. Hatch Road, Modesto CA 95358

A. CONDITIONS OF VIOLATION

Inspection of the above referenced property revealed the following violations of Stanislaus County Code Section 2.92.010:

1. Unlawful junkyard (§21.12.310) in an unapproved area. This is a violation of Stanislaus County Code §21.24.020.
2. Unlawful accumulation of refuse on the property. This is a violation of Stanislaus County Code §9.04.020.
3. Failure to remove refuse. Mandatory service area: owners must contract for weekly trash service. This is a violation of the Stanislaus County Code §9.04.040.

B. CORRECTIVE ACTION REQUIRED

Cause for the proper removal of all junk, appliances, building material, refuse and debris.

Cause for proper removal of refuse to an approved location.

Maintain mandatory weekly refuse disposal service with the designated franchise refuse hauler.

Restore property to conformity with all applicable county codes.

COUNTY OF STANISLAUS



NOTICE OF HEARING TO ABATE NUISANCE

RE: File No. NAHB 2001-07

Assessor's Parcel No. 017-24-28

Address: 2513 W. Hatch Road, Modesto, CA 95358

THIS IS A COURTESY NOTICE informing the surrounding area that the Planning Commission sitting as the Nuisance Abatement Hearing Board will conduct a Public Hearing on May 3, 2001 at the hour of 6:00 p.m. or as soon thereafter as the matter may be heard in the Joint Chambers Room, Basement Floor, 1010 10th Street, Modesto, California, to determine whether the conditions which exist on property located at 2513 W. Hatch Road, Modesto CA (Timothy Sinner and Leonardo A. Vasquez, joint tenants) constitute a public nuisance.

At the time and place specified in this Notice, the Hearing Officer or Hearing Board appointed to review the decision of the Director of the responsible County department ordering cessation or abatement of a nuisance occurring at or upon the subject property, shall proceed to hear the testimony of the undersigned enforcement official, his or her deputies, the testimony of the owner or his or her representatives, and the testimony of other competent person concerning persons the conditions constituting such nuisance, the estimated cost of abatement and other matters which the hearing Officer or Hearing Board may deem pertinent.

Upon the conclusion of the hearing, a decision will be rendered as to whether substantial evidence supports a determination that a nuisance exists upon the property.

For further information concerning this notice, please contact the Department of Environmental Resources, 3800 Cornucopia Way, Suite C, Modesto, California 95358 or call (209)525-6700.

Dated: April 18, 2001

Department of Environmental Resources
Jim Sellers, Code Enforcement Program Manager



**STAFF REPORT
NUISANCE ABATEMENT HEARING BOARD**

DATE OF HEARING: May 3, 2001

TITLE: Nuisance Abatement Hearing 2001-07; 2513 W. Hatch Road, Modesto, CA.

INTERESTED PARTIES: Timothy L. Sinner and Leonardo A. Vasquez, joint tenants.

LOCATION OF PROPERTY: 2513 W. Hatch Road, Modesto, CA. 95358 APN 017-24-27/28

STATEMENT OF VIOLATION:

Inspection of the above referenced property revealed the following violations of Stanislaus County Code Section 2.92.010:

1. Unlawful junkyard (§21.12.310) in an unapproved area. This is a violation of Stanislaus County Code §21.24.020.
2. Unlawful accumulation of refuse on the property. This is a violation of Stanislaus County Code §9.04.020.
3. Failure to remove refuse. Mandatory service area: owners must contract for weekly trash service. This is a violation of the Stanislaus County Code §9.04.040.

COMPLIANCE EFFORTS:

- November 19, 1998- A referral was filed with the Department of Environmental Resources from the Code Enforcement Task Force resulting in a Notice to Clean the property being issued to the owner. Exhibit 1.
- January 22, 1999- A notice of Hearing to abate a Nuisance was mailed to the owner after a site inspection revealed that the owner had not complied with the Notice to Clean the property.. The inspection revealed a massive amount of junk, debris, dismantled autos and auto parts, and tires. Exhibit 2.
- February 9, 1999- Photographs of the property were taken from plain view access. Exhibit

3.

- February 19, 1999- A Notice of Decision, outlining the determination of that board, was mailed to the owner. Exhibit 4.
- June 10, 1999-A memo was sent from Jim Sellers, Senior EHS to Jami Aggers, Manager, documenting the lack of progress in the property cleanup. Exhibit 5.
- June 11, 1999-Timothy Sinner made a phone call (documented in this memo) to Jami Aggers, Manager, indicating his intention to comply, and asking for assistance in placing dumpsters on the property for refuse disposal. Exhibit 6.
- March 23, 2000- Received initial Title search report. Exhibit 7
- April 17, 2000-A Notice and Order to Abate Nuisance was mailed, certified mail, to Timothy L. Sinner, and Leonardo A. Vasquez, with proof of service. Exhibit 8.
- April 17, 2000-A Notice and Order to Abate Nuisance was sent to KEY FEDERAL SAVING BANK, ONE AMERICA PLAZA, REHOBOTH, DELAWARE 19971, an interested party. Mail returned. Exhibit 9.
- April 17, 2000-A Notice and Order to Abate Nuisance was sent to ASSOC BONDS INS. CO., 605 SOUTH SPRING STREET, SUITE 910, LOS ANGELES, CA, an interested party. Mail returned. Exhibit 10.
- October 9, 2000-A second report of Title Search was received. Exhibit 11.
- November 22, 2000-A second Notice and Order to Abate Nuisance was mailed, certified mail, to Timothy L. Sinner and Leonardo A. Vasquez.. Exhibit 12.
- November 22, 2000-A Notice and Order to Abate Nuisance was mailed, certified mail, to Timothy L. Sinner, specific for parcel 017-24-27 (previously not identified). Exhibit 13.
- April 17, 2001- Photographs of current conditions on property.

SUMMARY OF EVIDENCE

- Exhibit 1-Code Enforcement Task Force Referral Letter dated November 19, 1998.
- Exhibit 2-Notice of Hearing to Abate Nuisance, dated January 22, 1999.
- Exhibit 3-Photographs of the property taken February 9, 1999.

- Exhibit 4-Notice of Decision of the Hearing Board, dated February 19, 1999.
- Exhibit 5-Memo dated June 10, 1999.
- Exhibit 6-Memo dated June 11, 1999.
- Exhibit 7-Title Search information, dated March 23, 2000.
- Exhibit 8-Notice and Order letter, to owners, dated April 17, 2000,
- Exhibit 9- Notice & Order letter to interested party, dated April 17, 2000.
- Exhibit 10- Notice & Order letter to interested party, dated April 17, 2000.
- Exhibit 11- Title Search information, dated October 4, 2000.
- Exhibit 12-Notice and Order to Abate Nuisance letter, to owners, dated November 22, 2000.
- Exhibit 13-Notice and Order to Abate Nuisance letter, to Timothy L. Sinner, specific for parcel 017-24-27, dated November 22, 2000.
- Exhibit 14- Photographs of the subject property, taken on, or about, April 17, 2001.

DISCUSSION:

The property is zoned R-A, rural residential, which allows for a single family dwelling on a parcel., in some cases a second dwelling and some other agricultural or home occupation uses. The operation of a junkyard, a vehicle storage yard or a salvage facility is not permitted.

This case was one of the earliest cases referred to the Code Enforcement task force upon its formation. Several attempts were made to work with the owner to abate this problem in the early stages of enforcement. Some innovations were developed, where the County and the owner partnered to try to achieve acceptable results, however no lasting or continuous progress was ever noted.

Enforcement activity has been confused and hampered by the complicated ownership situation and the use of three parcels, used as one, but with a different ownership scheme. The community residents have been vocal about their opposition to such an operation existing in their neighborhood, but at the same time have been understanding of the difficult nature of the enforcement activity.

The property was, and is noted to contain large amounts of refuse material including assorted debris, junk, tires, auto parts, dismantled autos, etc. All of this material, save for an area not to

exceed 200 square feet, shall be required to be removed.

This property is in the mandatory refuse collection area. As is the case, the property owner is required to cause for the proper and weekly disposal of all trash, refuse and debris. Furthermore, the owner of the property shall not allow refuse to be discarded on the property.

RECOMMENDATION:

- Find that the Department's determination that the conditions on the subject property constitute a public nuisance, conforms with applicable law and is supported by substantial evidence.
- Forward to the Board of Supervisors for adoption a recommended decision as set forth in Attachment A.

This report has been prepared by Jim Sellers, Code Enforcement Program Manager, Department of Environmental Resources. (525-6763).