

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS

ACTION AGENDA SUMMARY

DEPT: Planning and Community Development

BOARD AGENDA # *D-4

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 DAD2011-00007 Located at 507 Kerr Avenue, Modesto, California

STAFF RECOMMENDATIONS:

1. Adopt the decision from the Nuisance Abatement Board to abate the dangerous buildings located at 507 Kerr Avenue, 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 507 Kerr Avenue 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. 2011-712

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:

Christine Ferraro

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 507 Kerr Avenue, Modesto, California, which is zoned R-3 (Residential) and contains three structures on the parcel, one vacant fire damaged single-family dwelling, and two detached accessory structures with no damage. The following is the series of steps taken by County staff to bring corrective action to this property.

On June 23, 2011, the Stanislaus County Building Permits Division was notified in regards to structure fires on neighboring parcels. An inspection of the property was completed and it revealed the roof, interior walls, and exterior walls of the dwelling were severely fire damaged. The Building Permits Division completed an investigation and found that the single-family dwelling structure meets the standard of a Dangerous Building and posted the structure "DO NOT ENTER, UNSAFE TO OCCUPY"

A letter was sent on June 23, 2011, to the owners listed on the Assessor's records, Barbie L. Escalante and Joseph F. Escalante. The letter notified the owners that the structure has severe fire damage to such an extent that it cannot be economically repaired. The recommendation was made to demolish the remaining portion of the structure. The letter was returned not deliverable.

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 owner.

An additional site inspection was performed on July 25, 2011. No attempt to remove the substandard building had been made at that time. A second letter was sent by certified mail notifying the property owners, Barbie L. Escalante and Joseph F. Escalante, 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 Stanislaus County 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 letter was returned not deliverable, included on the return receipt from the postal carrier was a forwarding address. On August 10, 2011, a certified letter was re-

sent to the new address. On August 15, 2011, Division staff received the signed receipt to verify the owner received the letter but no further correspondence from the owner was initiated.

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 #11-0073879-00.

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.

STAFFING IMPACTS:

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

Approval to Adopt the Recommendations from the Nuisance Abatement Board's Public Hearing Regarding Dangerous Building Case DAD2011-00007 Located at 507 Kerr Avenue, Modesto, California
Page 4

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: 507 Kerr Avenue
Abatement Hearing No. DAD2011-00007

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 507 Kerr Avenue, Modesto, CA, in the unincorporated area of Stanislaus County, California, also identified as Assessor's Parcel Number 035-038-017, 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 **Barbie L. Escalante and Joseph F. Escalante, Long Beach Mortgage Loan Trust and Deutsche Bank National Trust Company** 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 Nuisance 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.

ATTACHMENT 1

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 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.

Dated: October 27, 2011

A handwritten signature in black ink, appearing to read "Steve Boyd", is written over a horizontal line.

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 # DAD2011-00007**

BUILDING INSPECTOR:

Denny Ferreira

PROPERTY ADDRESS, APN AND LEGAL DESCRIPTION:

507 Kerr
Modesto, CA. 95354
APN 035-038-017

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

The Southerly 50 feet of Lot 1 in Block 2078 of Sierra Subdivision No. 2 as per Map thereof recorded July 14, 1936 in Book 11 of Maps, Page 31, Stanislaus County records

APN:035-038-017

There is Three (3) structures on said parcel, one (1) dwelling unit and two (2) detached accessory structures. According to the assessors records the dwelling unit was built in 1940. The parcel listed herin is located in a residential neighborhood currently zoned R-3 and has an estimated lot size of 0.17 acres. The physical location of the parcel is south of Canal Street and north of Oregon Drive within the Sierra Subdivision Number 2.

PROPERTY OWNER INFORMATION:

Barbie L & Joseph F Escalante is the owner 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 beneficial interest under said deed of trust was assigned to Deutsche Bank National Trust Company, as Trustee for Long Beach Mortgage Loan Trust 2006-4, on March 15, 2011 as instrument label 2011-002971 of Official Records.

A substitution of Trustee which names California Reconveyance Company as trustee recorded March 15, 2011, as instrument label 2011-002972 of Official Records.

A Notice of Default recorded March 15, 2011, as Instrument 2011-002973 of Official Records

A Notice of Trustee's Sale recorded June 21, 2011, as Instrument 2011-0051179 of Official Records

GENERAL HISTORY AND BACKGROUND INFORMATION:

JUNE 23, 2011

- Stanislaus County Building Permits Division was notified about two (2) house fires on neighboring properties. (503/505 Kerr and 507 Kerr)
- An Inspection of the property was completed and immediately posted. The roof, interior walls and exterior walls are severely fire damaged and must be removed.
- 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"
- A certified letter was sent to the owner listed on the assessor's records, Barbie L & Joseph F Escalante. 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 structure.

JUNE 27, 2011

- Certified letter was returned to indicate that the letter was "Not Deliverable"

JULY 25, 2011

- Site Inspection performed. No attempt to remove the substandard building had been made.
- A second letter was sent notifying the property owner, Barbie L & Joseph F Escalante 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.

AUGUST 9, 2011

- Certified letter was returned to indicate that the letter was "Not Deliverable". Included on the returned letter was a label placed on it by the postal carrier with a new forwarding address.

AUGUST 10, 2011

- A certified letter was sent to the parcel owners to the new address

AUGUST 15, 2011

- Certified mail receipt was returned to indicate that the owner received and signed for the letter on August 12, 2011.

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".

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 #11-0073879-00

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)

SEPTEMBER 7, 2011

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

October 7, 2011

- Attempted to contact Long Beach Mortgage Company (C1973480). Their status as a Corporation within the State of California has been "SURRENDERED".
- Attempted to contact the listed Registered Agent of the corporation and all numbers associated with the agent have been disconnected.

OCTOBER 13, 2011

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

County of Stanislaus: Auditor-Controller

Legal Budget Journal

Database
Set of Books

FMSDBPRD.CO.STANISLAUS.CA.US.PROD
County of Stanislaus

Balance Type		Budget
Category	* List - Text	Budget - Upload
Source	* List - Text	PL MR
Currency	* List - Text	USD
Budget Name	List - Text	LEGAL BUDGET
Batch Name	Text	
Journal Name	Text	
Journal Description	Text	INCREASE APPROPRIATIONS
Journal Reference	Text	
Organization	List - Text	Stanislaus Budget Org

Upl	Fund	Org	Acc't	GL Proj	Loc	Misc	Other	Debit	Credit	Period	Line Description
								incr appropriations decr est revenue (format > number > general)	decr appropriations incr est revenue	Upper case MMM-YY List - Text	Text
4	7	5	7	6	6	5					
1-	1746	0043290	63280	0000000	000000	000000	00000	\$7,000.00		NOV-11	INCREASE APPROP.
1-	1746	0043290	73710	0000000	000000	000000	00000	\$2,500.00		NOV-11	INCREASE APPROP.

Totals:	9500	0
Explanation:	INCREASE APPROPRIATIONS FOR COSTS ASSOCIATED WITH THE DEMOLITION AND REMOVAL OF DANGEROUS BUILDING AT 507 KERR, MODESTO	

Requesting Department	Data Entry	Auditors Office Only	
KIRK FORD			
Signature 	Keyed by	Prepared By	Approved By
11/4/11 Date	11/07/11 Date	Date	11-04-11 Date