

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

DEPT: Planning and Community Development *AS*

BOARD AGENDA # *D-2

Urgent

Routine

AGENDA DATE February 25, 2014

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Adopt the Recommendations from the Nuisance Abatement Hearing Board's Public Hearing Regarding Dangerous Building Case DNB2013-0002 Located at 1713 John Street, Modesto, California

STAFF RECOMMENDATIONS:

Adopt the recommended decision of the Nuisance Abatement Hearing Board regarding nuisances at 1713 John Street, Modesto, California, as set forth in Attachment 1.

FISCAL IMPACT:

The estimated cost to administer, demolish the structure, and remove all debris and rubbish located at 1713 John Street is not to exceed \$12,000. All costs associated with the remediation of dangerous buildings within Stanislaus County are funded through the use of the Dangerous Building Abatement Fund. 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. The Dangerous Building Abatement fund has an available fund balance of \$143,968 as of January 31, 2014.

BOARD ACTION AS FOLLOWS:

No. 2014-84

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

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

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.

DISCUSSION:

On January 9, 2013, the Stanislaus County Building Permits Division was notified by a citizen in regards to a burned building located at 1713 John Street. The Building Permits Division completed an investigation and found that the detached structure meets the standard of a Dangerous Building and posted to the structure a notice stating "DO NOT ENTER, UNSAFE TO OCCUPY". The inspection revealed that the roof and all the exterior walls of the single family dwelling were destroyed and fire damaged.

A letter was mailed on January 10, 2013, to the owner listed on the Assessor's records, Gary R. Sougey. The letter notified the owners that a structure on their property has burned and suffered 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.

When such fire damage occurs on private property, Building Permits Division staff makes several 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.

An additional site inspection was performed on March 1, 2013. No attempt to remove the substandard structure had been made at that time. A second letter was sent March 4, 2013 by certified mail notifying the property owners that positive action must be taken to correct the unsafe and substandard conditions that exist on the property. It was noted within the letter that the Stanislaus County Building Permits Division will start legal action in order to abate the unsafe and substandard structure that exists on the said property. The certified letter receipt was signed and returned on March 11, 2013 indicating that the owner received the letter.

The owner made contact with the Building Permits Division on March 22, 2013. Mr. Sougey stated that he was waiting on a response from his home owner's insurance and depending upon their decision he may request that the fire department burn the remaining portions of the building for training purposes.

On July 15, 2013, the final site investigation was completed and found that the owners had made no attempt to remove the substandard structure. A certified letter was sent September 17, 2013, notifying the owners that if no attempt was made to correct the unsafe and substandard structure then it would become necessary for the Stanislaus County Building Permits Division to start legal action to do so. The certified letter receipt was signed and returned on October 4, 2013 indicating that the owner received the letter.

On November 25, 2013, 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

Approval to Adopt the Recommendations from the Nuisance Abatement Hearing Board's Public Hearing Regarding Dangerous Building Case DNB2013-0002 Located at 1713 John Street, Modesto, California
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Dangerous Building" with the Stanislaus County Clerk-Recorder's Office, Doc #13-0096960-00. The certified letter receipt was signed and returned on Jan 30, 2014 indicating that the owner received the letter.

A "Notice of Public Hearing" letter was sent to the property owner along with all parcel owners within 300 feet of this parcel on November 25, 2013. During the Nuisance Abatement Hearing Board meeting, held on December 12, 2013, the parcel owner failed to be present at the public hearing. Neighbors and residents of the neighborhood were present at the public hearing and were in favor of staff's recommendation to remove the Dangerous Building.

The Nuisance Abatement Hearing Board supported staff's recommendation to abate the unsafe structure and forward 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, the Planning and Community Development Department, Building Permits Division, will contract through the approved methods and will conduct a forced clean-up by demolishing the unsafe structure; and removing and disposing of all debris, refuse, and rubbish to an approved off-site location.

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.

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 performs the administration of nuisance abatement cases.

CONTACT PERSONS:

Steve Treat or Denny Ferreira, Department of Planning and Community Development
Telephone: (209) 525-6557

ATTACHMENTS:

1. Nuisance Abatement Hearing Board Decision with Attachment A.



NUISANCE ABATEMENT HEARING BOARD

DECISION

IN RE: 1713 JOHN STREET Abatement Hearing No. DNB2013-0002

The Nuisance Abatement Hearing Board heard the above-referenced matter on **December 12, 2013**. Upon consideration of oral and documentary evidence presented at the hearing, the Nuisance Abatement Board finds and determines as follows:

1. The property located at 1713 John Street, Modesto, CA, in the unincorporated area of Stanislaus County, California, also identified as Assessor's Parcel Number 037-024-025, is zoned R-2, 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 and additional legal recorded documents.
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 Nuisances 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 |

NOW THEREFORE, the Nuisance Abatement Hearing Board recommends that the Stanislaus County Board of Supervisors:

- Approve Staff's recommendation and determine the structure is Unsafe and:
1. Order the owner and interested parties to abate the nuisances 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 nuisances 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 nuisances 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 structure is **NOT** an Unsafe structure as defined by The International Property Maintenance Code and Stanislaus County Code.

Dated: **DECEMBER 12, 2013**



Marc Etchebarne, Vice Chair
Stanislaus County Nuisance Abatement Hearing Board

It should be noted that on **January 14, 2014** 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 # DNB2013-0002

PROPERTY ADDRESS, APN AND LEGAL DESCRIPTION:

1713 John Street
Modesto, CA 95351
APN #: 037-024-025

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

LOT 14 IN BLOCK 9153 OF RIVER VIEW TRACT, IN THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL MAP THEREOF, FILED IN THE OFFICE OF THE RECORDER OF STANISLAUS COUNTY, CALIFORNIA, ON FEBRUARY 28, 1946 IN VOLUME 14 OF MAPS AT PAGE 44.

APN: 037-024-025

There is a single family dwelling on said parcel. According to the assessors records the structure was built in 1944. The parcel listed herin is located in a residential neighborhood currently zoned R-2 and has an estimated lot size of 0.15 acres. The physical location of this parcel is west of the Intersection of John Street and Hayes Street.

PROPERTY OWNER INFORMATION:

Gary R. Sougey, trustee of the Gary R. Sougey 2001 Trust, 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 similar information.

HISTORY AND CASE INFORMATION:

JANUARY 9, 2013

- Stanislaus County Building Permits Division was notified by a constituent in regards to a burned building on said parcel.

- An Inspection of the property was completed and immediately posted. 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 structure meets the standard of a Dangerous Building and posted the structure "DO NOT ENTER, Unsafe to Occupy"

JANUARY 10, 2013

- A letter was sent to the owner(s) listed on the assessor's records, Gary R. Sougey. 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 structures.

MARCH 1, 2013

- Site inspection performed. No attempt to remove the substandard building had been made.
- Inspection found that the site has collected trash and rubbish due to its abandoned condition.

MARCH 4, 2013

- A second letter was sent by certified mail notifying the property owner, positive action must be taken to correct the unsafe and substandard conditions by March 19, 2013. 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.

MARCH 11, 2013

- The Stanislaus County Building Permits Division received the certified letter receipt indicating that the owners received the letter.

JULY 15, 2013

- Site inspection performed. No attempt to remove the substandard building had been made.
- Inspection found that the site has collected additional trash and rubbish due to its abandoned condition.

SEPTEMBER 17, 2013

- A third and final letter was sent to the owner stating that insufficient action has been taken towards the demolition and cleanup of the parcel. The letter indicates that the property owner has 30 days to abate the unsafe structure or the Stanislaus County Building Permits Division will begin legal action to abate the dangerous building and clean the parcel.

OCTOBER 4, 2013

- The Stanislaus County Building Permits Division received the certified letter receipt indicating that the owners received the letter.

OCTOBER 8, 2013

- Lot Book Guarantee was ordered from Stewart Title.

OCTOBER 18, 2013

- Lot Book Guarantee received.

NOVEMBER 25, 2013

- Site Inspection performed. No attempt to remove the substandard building had been made.
- Posted the structure with a "Notice and Order to Abate" and also sent a "Notice an Order to Abate" to the owner by Certified Mail.
- The Stanislaus County Building Permits Division recorded a "Certificate of Existence of a Dangerous Building" with the Stanislaus County Clerk Recorder's Office. Doc #13-0096960-00`

ENFORCEMENT ACTION TAKEN:

NOVEMBER 25, 2013

- Posted "Notice and Order" on structure; per Chapter 2 (2.92.030) of Title 16 and Title 16 (16.25.30);
- Certified letter sent with "Notice and Order"; per Chapter 2 (2.92.030) of Title 16 and Title 16 (16.25.30);
- Recorded "Certificate of Existence of Substandard and Dangerous Building" per Title 16 (16.25.30).
- Notice of Public Hearings sent to owner and all parcel owners within 300 feet. Per Chapter 2 (2.92.070:A:1)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:

1. Unsafe structures 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.
2. 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.
3. 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: 12/03/2013

Denny Ferreira

OFFICER

Approved:



Building Inspector
