

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

DEPT: Planning and Community Development *AC*

BOARD AGENDA # *D-2

Urgent Routine

AGENDA DATE July 15, 2014

CEO Concur with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Adopt the Recommendations from the Nuisance Abatement Hearing Board Regarding Dangerous Building Case DNB2013-0005, Located at 419 S. Conejo Avenue, Modesto, California

STAFF RECOMMENDATIONS:

Adopt the recommended decision of the Nuisance Abatement Hearing Board regarding nuisances at 419 S. Conejo Avenue, 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 419 S. Conejo Avenue is not to exceed \$15,000. 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, pursuant to the California Government Code 25845 and the 2006

(Continued on page 2)

BOARD ACTION AS FOLLOWS:

No. 2014-379

On motion of Supervisor Monteith, Seconded by Supervisor Withrow
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.

FISCAL IMPACT: (Continued)

Edition of the International Property Maintenance Code Section 106, 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 \$132,552 as of June 30, 2014.

DISCUSSION:

On August 2, 2013, the Stanislaus County Building Permits Division was notified by a constituent in regards to a burned building located at 419 S. Conejo Avenue. An inspection of the property was completed and revealed that the roof and all the exterior walls of the detached garage were destroyed and fire damaged. 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".

A "Notice to Owner" letter was mailed on August 2, 2013, to the owners listed on the Assessor's records, Escalon Capital Group, LLC. 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. On August 15, 2013, The "Notice to Owner" letter was returned due to its delivery status: "Return to Sender, Not Deliverable as addressed, Unable to Forward". A search of the California Secretary of State Business Entity data base verified that the corporation had an "Active" status along with a different current address. On August 20, 2013, the "Notice to Owner", originally sent on August 2, 2013, was resent to the address listed on the California Secretary of State Business Entity website. The letter was again returned on August 27, 2013, with the same delivery status.

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 December 6, 2013. No attempt to remove the substandard structure had been made at that time. In addition, Staff noted a significant buildup of trash and rubbish on the property. A "Second Notice" was sent by certified mail notifying the property owners and to the Agent for Service of Process for the LLC, specifying 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 sent to Escalon Capital Group, LLC. was returned with a "Return to Sender". Not Deliverable as Addressed. Unable to Forward" status. The certified mail receipt from the additional letter sent to the Agent for Service of Process for the LLC was returned confirming delivery.

On February 28, 2014, the final site investigation was completed and found that the owners had made no attempt to remove the substandard structure or the accumulating trash and rubbish. A "Final Notice" was sent March 3, 2014, by certified mail notifying the owners, along with their Agent for Service of Process, if no attempt was made to correct the unsafe and substandard structure and clean the parcel of all trash and rubbish then it would become necessary for the Stanislaus County Building Permits Division to start legal action to do so.

During the process of abatement a Lot Book Guarantee is secured in order to verify that the parcel owner information listed on the Assessor's Office data base is still current and accurate. The Lot Book Guarantee obtained from Stewart Title Company revealed a Grant Deed dated Tuesday November 13, 2007, in which Escalon Capital Group was listed as "Grantee" per Instrument 2007-0137630. No other Recorded Documents exists that indicate a sale of the property or any transfer of title or ownership.

On June 3, 2014, 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 listed on the Assessor's records, Escalon Capital Group, LLC by certified mail. Immediately following the posting, on June 4, 2014, the Stanislaus County Building Permits Division recorded a "Certificate of Existence of a Dangerous Building" with the Stanislaus County Clerk-Recorder's Office, Doc #2014-00035706-00. On June 18, 2014, the Building Permits Division received the "Notice and Order" sent by certified mail with a status of "Return to Sender, Not Deliverable as addressed, Unable to Forward." Additional research on the California Secretary of State Business Entity website revealed the status to be "Suspended".

A "Notice of Public Hearing" letter was sent to the to the owner listed on the Assessor's records, Escalon Capital Group, LLC along with all parcel owners within 300 feet of this parcel on June 16, 2014. During the Nuisance Abatement Hearing Board meeting, held on June 26, 2014, 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, trash and rubbish.

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.

Approval to Adopt the Recommendations from the Nuisance Abatement Hearing Board Regarding Dangerous Building Case DNB2013-0005, Located at 419 S. Conejo Avenue, Modesto, California
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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



NUISANCE ABATEMENT HEARING BOARD

DECISION

**IN RE: 419 S CONEJO
Abatement Hearing No. DNB2013-0005**

The Nuisance Abatement Hearing Board heard the above-referenced matter on June 26, 2014. 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 419 S Conejo, Modesto, CA, in the unincorporated area of Stanislaus County, California, also identified as Assessor's Parcel Number 035-040-025, 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 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 1

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 a unlawful vacant structures and an unlawful accumulation of debris, refuse and rubbish in the staff report is a violation of Stanislaus County Code Chapter 2.92 and 2.93.
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 use of the property described as a 419 S Conejo Avenue in the staff report is not a violation of Stanislaus County Code Chapter 2.92.

Dated: **June 26, 2014**



Marc Etchebarne, Chair
Stanislaus County Nuisance Abatement Hearing Board

It should be noted that on **July 15, 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 # DNB2013-0005**

BUILDING INSPECTOR:

Denny Ferreira

PROPERTY ADDRESS, APN AND LEGAL DESCRIPTION:

419 S Conejo
Modesto, CA 95350
APN #: 035-040-025

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

LOT 30 AND THE SOUTH HALF OF LOT 29 IN BLOCK 2140 OF SIERRA SUBDIVISION, AS PER MAP FILED JUNE 20, 1938 IN VOLUME 11 OF MAPS, AT PAGE 44, STANISLAUS COUNTY RECORDS.

APN: 035-040-025

There is a single family dwelling on said parcel. According to records the structure was built about 1940. The parcel listed herein is located in a residential neighborhood currently zoned R-3 (Multiple Family Residential) and has an estimated lot size of 0.27 acres. This parcel is located on the north side of south Conejo between the Tenya Drive and Tioga Drive, in the Modesto area.

PROPERTY OWNER INFORMATION:

Escalon Capital Group is the owner of record according to the Stanislaus County Tax Assessor's web site. The most current Lot Book Guarantee obtained from Stewart Title Company along with the Grant Deed, obtained from the Stanislaus County Clerk Recorders office, verified the information to be accurate.

In accordance with the information obtained from the California Secretary of State, Escalon Capital Group, LLC was an active corporation at the creation of this case. Since that time the Corporation has had its use suspended.

HISTORY AND CASE INFORMATION:

AUGUST 2, 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 parcel was also littered with trash and rubbish.
- 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 "Notice to Owner" was sent to the owner(s) listed on the assessor's records, Escalon Capital Group. 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 and clean the premises.

AUGUST 15, 2013

- The Stanislaus County Building Permits Division received the "Notice to Owner" back, stamped "RETURN TO SENDER. NOT DELIVERABLE AS ADDRESSED. UNABLE TO FORWARD."

AUGUST 20, 2013

- Research gathered from the California Secretary of State's business entity data base verified that the corporation was active and the address was valid and registered with the state.
- The original August 2, 2013 letter that notified the parcel owners of the conditions that existed on the property, was resent.

AUGUST 27, 2013

- The Stanislaus County Building Permits Division again received back the letter stamped "RETURN TO SENDER. NOT DELIVERABLE AS ADDRESSED. UNABLE TO FORWARD."

DECEMBER 6, 2013

- Site Inspection performed. No attempt to remove the substandard building had been made. The amount of rubbish and trash being dumped has increased significantly.
- A "Second Notice" was sent by certified mail notifying the property owner, Escalon Capital Group, Inc. that positive action must be taken to correct the unsafe and substandard conditions within 30 days. It is noted within the letter that the Building Permits Division will re-inspect the parcel.
- The "Second Notice" was also sent by certified mail to the Agent for Service of Process for the corporation. This information was listed within the California Secretary of State's business entity data base.

DECEMBER 16, 2013

- Certified mail receipt was returned to indicate that the Agent of Service received and signed for the "Second Notice" on December 13, 2013.

FEBRUARY 28, 2014

- Site Inspection performed. No attempt to remove the substandard building had been made. The rubbish and trash being dumped has increased significantly and is nearing the public way at the edge of the road.

MARCH 3, 2014

- A "Final Notice" was sent by certified mail notifying the property owner, Escalon Capital Group, LLC and their Agent of Service that positive action must be taken to correct the unsafe and substandard conditions by March 21, 2014. 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, 2014

- The Stanislaus County Building Permits Division received the March 3, 2014 "Final Notice" letter back with a "RETURN TO SENDER. NOT DELIVERABLE AS ADDRESSED. UNABLE TO FORWARD."

MAY 13, 2014

- Lot Book Guarantee was ordered from Stewart Title.

MAY 20, 2014

- Lot Book Guarantee received.

JUNE 3, 2014

- Completed additional research on the status of Escalon Capital Group as an active corporate entity with the Secretary of State of California and found that the status had been suspended.
- 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.

JUNE 4, 2014

- The Stanislaus County Building Permits Division recorded a "Certificate of Existence of a Dangerous Building" with the Stanislaus County Clerk Recorder's Office. Doc #14-0035706-00.

ENFORCEMENT ACTION TAKEN:

JUNE 3, 2014

- 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);

JUNE 4, 2014

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

JUNE 16, 2014

- 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:

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: 06/26/2014


OFFICER

Approved:

Denny Ferreira, Supervising Building Inspector