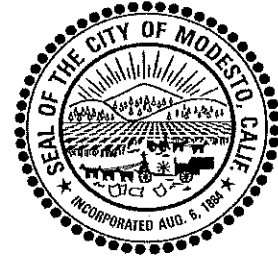


**CITY OF MODESTO, CALIFORNIA**

Community and Economic Development Department  
Building Safety Division  
P.O. Box 642  
1010 Tenth Street, Suite 3100  
Modesto, California 95353



Telephone: (209) 577-5232  
Facsimile: (209) 571-5135  
TDD: (209) 526-9211

# **NOTICE OF PASSAGE OF RESOLUTION**

**JUNE 7, 2019**

**TO: KIMBERLY R. DELANEY  
3520 BERESFORD DRIVE  
MODESTO, CA 95357**

**VIA: CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

**RE: NUISANCE CONDITIONS CAUSED BY THE LACK OF UTILITIES  
RESULTING IN PEOPLE CAMPING WITHIN THE SINGLE-STORY  
DWELLING AND THREE-CAR GARAGE ON THE PROPERTY WITH  
PERSONAL ITEMS, FURNITURE AND JUNK STORED ON THE  
DRIVEWAY, FRONT SIDEWALK AND PORCH ALONG WITH NON-OP  
VEHICLES PARKED ON THE DRIVEWAY OF THE PROPERTY  
IDENTIFIED AS 3520 BERESFORD DRIVE, MODESTO, CALIFORNIA;  
CITY OF MODESTO CODE ENFORCEMENT CASE NO. NPU2019-00711**

PLEASE TAKE NOTICE that on May 23, 2019, the Board of Building Appeals of the City of Modesto conducted a public hearing regarding the real property situated in the City of Modesto commonly referred to as 3520 Beresford Drive (hereinafter referred to collectively as the “premises”). Following the public hearing, the Board adopted Resolution No. 2019-10, a true and correct copy of which is attached to this Notice.

**PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO RESOLUTION NO. 2019-10, THE BOARD AFFIRMS THE NOTICE AND ORDER ISSUED BY THE CITY ON MARCH 14, 2019 AND ORDERS:**

- **DECLARE THE PROPERTY IS A PUBLIC NUISANCE.**
- **AFFIRM THE NOTICE AND ORDER DATED MARCH 14, 2019.**
- **ORDERS THE PROPERTY OWNER TO CONTACT THE FINANCE DEPARTMENT OF THE CITY OF MODESTO AND RESTORE WATER AND GARBAGE SERVICE WITHIN THIRTY (30) CALENDAR DAYS OF THE DATE OF THE RESOLUTION.**
- **ORDERS THE PROPERTY OWNER TO CONTACT THE MODESTO IRRIGATION DISTRICT AND RESTORE ELECTRICAL SERVICE TO THE SINGLE-FAMILY DWELLING WITHIN THIRTY (30) CALENDAR DAYS OF THE DATE OF THE RESOLUTION.**
- **ORDERS THE PROPERTY OWNER TO CONTACT PG&E TO RESTORE GAS SERVICE TO THE SINGLE-FAMILY DWELLING WITHIN THIRTY (30) CALENDAR DAYS OF THE DATE OF THE RESOLUTION.**
- **ORDERS THE PROPERTY OWNER TO COMMENCE THE REMOVAL OF ALL NON-WORKING VEHICLES, PERSONAL ITEMS, GARBAGE, FURNITURE AND JUNK FROM THE EXTERIOR YARDS OF THE PROPERTY WITHIN THIRTY (30) CALENDAR DAYS OF THE DATE OF THE RESOLUTION.**
- **IF THE PROPERTY OWNER FAILS TO RESTORE UTILITIES THE PROPERTY OWNER IS REQUIRED TO COMMENCE THE EVICATION/REMOVAL OF ALL TENANTS INCLUDING THEMSELVES FROM THE PROPERTY AND SINGLE-FAMILY DWELLING WITHIN THIRTY (30) CALENDAR DAYS OF THE DATE OF THE RESOLUTION.**
- **IF THE PROPERTY OWNER EVICTS/REMOVES ALL TENANTS INCLUDING THEMSELVES FROM THE PROPERTY AND SINGLE-FAMILY DWELLING THEY ARE REQUIRED TO COMMENCE THE SECURING OF THE GARAGE AND SINGLE-FAMILY DWELLING FROM UNAUTHORIZED ENTRY PER THE CITY OF MODESTO BOARD UP SPECIFICATIONS ATTACHED TO THE NOTICE AND ORDER WITHIN THIRTY (30) CALENDAR DAYS OF THE DATE OF THE RESOLUTION.**
- **AFFIRM THE CIVIL PENALTIES IN THE AMOUNT OF \$8,750 AND HOLD THEM IN ABEYANCE TO ALLOW THE PROPERTY OWNER THIRTY (30) CALENDAR DAYS FROM THE DATE OF THE RESOLUTION TO COMPLY WITH THE RESOLUTION**
- **AFFIRM THAT CIVIL PENALTIES IN THE AMOUNT OF \$250 PER DAY WILL CONTINUE TO ACCRUE.**
- **AFFIRM THE HEARING COST OF \$562.35.**

**IF THE NUISANCE IS NOT ABATED WITHIN THE SPECIFIED TIME, THE CITY OF MODESTO SHALL PROCEED WITH THE ADMINISTRATIVE ABATEMENT ACTION AND THE EXPENSE THEREOF MADE A PERSONAL OBLIGATION OF THE PROPERTY**

BOARD OF BUILDING APPEALS  
RESOLUTION NO. 2019-10

A RESOLUTION DECLARING THE BUILDING LOCATED AT 3520 BERESFORD  
DRIVE A PUBLIC NUISANCE AND DIRECTING THE PROPERTY OWNER TO  
ABATE THE NUISANCE WITHIN (30) CALENDAR DAYS

WHEREAS, Kimberly R. Delaney has title to and is the recorded owner of property located at 3520 Beresford Drive in the City of Modesto, County of Stanislaus, hereinafter referred to collectively as the "premises"; and

WHEREAS, the premises at 3520 Beresford Drive consists of nuisance conditions caused by the lack of utilities resulting in people camping within the single-story dwelling and three-car garage on the property with personal items, furniture and junk stored on the driveway, front sidewalk and porch along with non-op vehicles parked on the driveway; and

WHEREAS, the Chief Building Official of the City of Modesto is authorized by the Building Maintenance Code of the City of Modesto to enforce all provisions of the Code including authority to inspect any building or structure and order that any such building or structure determined under the Building Maintenance Code to be Unsafe and Unfit for Human Occupancy be declared a public nuisance and order the recorded owner to abate the nuisance conditions by demolition of the unsafe structures and the removal of the junk, trash, debris and weeds on the property; and

WHEREAS, an inspection of the premises was conducted by City of Modesto Building Safety Division personnel on February 18, 2019; and

WHEREAS, a Notice and Order dated March 14, 2019 was issued by the Chief Building Official and ordered the property owner to contact the Building Safety Division of the City of Modesto and ordered:

BEGIN THE EVICTION/REMOVAL OF ALL TENANTS LIVING IN THE SINGLE-FAMILY DWELLING AND PROVIDE DOCUMENTATION TO THE BUILDING SAFETY DIVISION OF THE CITY OF MODESTO WITHIN SEVEN (7) CALENDAR DAYS OF THE DATE OF THIS NOTICE AND ORDER. CONTACT THE FINANCE DEPARTMENT OF THE CITY OF MODESTO AND RESTORE WATER AND GARBAGE SERVICE TO THE PROPERTY WITHIN THIRTY (30) CALENDAR DAYS OF THE DATE OF THIS NOTICE AND ORDER. CONTACT THE MODESTO IRRIGATION DISTRICT AND RESTORE ELECTRICAL SERVICE TO THE PROPERTY WITHIN THIRTY (30) CALENDAR DAYS OF THE DATE OF THIS NOTICE AND ORDER. CONTACT PG&E AND RESTORE GAS SERVICE TO THE PROPERTY WITHIN THIRTY CALENDAR DAYS OF THE DATE OF THIS NOTICE AND ORDER.

IF YOU CHOOSE NOT TO DO THE ABOVE YOU ARE REQUIRED TO DO THE FOLLOWING WITHIN (30) DAYS OF THE DATE OF THIS NOTICE AND ORDER:

EVICT/REMOVE ALL TENANTS, INCLUDING YOU FROM THE PROPERTY AND SINGLE-FAMILY DWELLING. FOLLOWING THE EVICTION/REMOVAL OF ALL TENANTS INCLUDING YOU, YOU ARE

REQUIRED TO SECURE ALL POINTS OF ENTRY, INCLUDING ALL EXTERIOR DOORS, WINDOW, OR ANY OPEN ACCESS POINT TO PREVENT UNAUTHORIZED ENTRY PER THE ENCLOSED CITY OF MODESTO BOARD UP SPECIFICATIONS INTO THE SINGLE-FAMILY DWELLING AND DETACHED GARAGE, SIGN AND RETURN THE ENCLOSED MODESTO POLICE DEPARTMENT AUTHORITY TO ARREST LETTER.

WHEREAS, the owner(s) of said premises have failed to complete work within the time specified in said Notice and Order and, therefore, the owner(s) are now in violation of the Building Maintenance Code of the City of Modesto; and

WHEREAS, the property continues to deteriorate and constitutes a public nuisance; and

WHEREAS, pursuant to California Code of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1, Article 6, Section 66, thirty (30) calendar days after the posting of copies of this resolution, the City of Modesto shall be deemed to have acquired jurisdiction to abate such nuisance by razing or removing the building unless the nuisance is abated by the owner or the person interested within the thirty (30) calendar day period or any extension thereof granted by the Board of Building Appeals as provided in Article 12 of the Building Maintenance Code. In the event that the nuisance is not abated within the time prescribed, the City of Modesto may thereupon raze and remove the premises or have the same done under its direction and supervision; and

WHEREAS, a "Board of Building Appeals Civil Penalty Hearing Notice" (update from April 25, 2019, meeting) gave notice that a public hearing would be held by the Board of Building Appeals of the City of Modesto, on May 23, 2019, at 4:00 p.m., in the Basement Conference Room B300 – Tenth Street Place, 1010 Tenth Street, Modesto, California; regarding the real property situated in the City of Modesto commonly referred to as 3520 Beresford Drive; and

WHEREAS, a duly noticed public hearing of the Board was held at date, time, and place as mentioned above, for the purposes of hearing and receiving evidence that address changes may have made it difficult for the property owner to receive notice of proceedings.

NOW, THEREFORE, BE IT RESOLVED by the Board of Building Appeals of the City of Modesto, that the following be ordered:

**PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO RESOLUTION NO. 2019-10, THE BOARD AFFIRMS THE NOTICE AND ORDER ISSUED BY THE CITY ON MARCH 14, 2019 AND ORDERS:**

- **DECLARE THE PROPERTY IS A PUBLIC NUISANCE.**
- **AFFIRM THE NOTICE AND ORDER DATED MARCH 14, 2019.**
- **ORDERS THE PROPERTY OWNER TO CONTACT THE FINANCE DEPARTMENT OF THE CITY OF MODESTO AND RESTORE WATER AND GARBAGE SERVICE WITHIN THIRTY (30) CALENDAR DAYS OF THE DATE OF THE RESOLUTION.**
- **ORDERS THE PROPERTY OWNER TO CONTACT THE MODESTO IRRIGATION DISTRICT AND RESTORE ELECTRICAL SERVICE TO**

**THE SINGLE-FAMILY DWELLING WITHIN THIRTY (30) CALENDAR DAYS OF THE DATE OF THE RESOLUTION.**

- **ORDERS THE PROPERTY OWNER TO CONTACT PG&E TO RESTORE GAS SERVICE TO THE SINGLE-FAMILY DWELLING WITHIN THIRTY (30) CALENDAR DAYS OF THE DATE OF THE RESOLUTION.**
- **ORDERS THE PROPERTY OWNER TO COMMENCE THE REMOVAL OF ALL NON-WORKING VEHICLES, PERSONAL ITEMS, GARBAGE, FURNITURE AND JUNK FROM THE EXTERIOR YARDS OF THE PROPERTY WITHIN THIRTY (30) CALENDAR DAYS OF THE DATE OF THE RESOLUTION.**
- **IF THE PROPERTY OWNER FAILS TO RESTORE UTILITIES THE PROPERTY OWNER IS REQUIRED TO COMMENCE THE EVICTION/REMOVAL OF ALL TENANTS INCLUDING THEMSELVES FROM THE PROPERTY AND SINGLE-FAMILY DWELLING WITHIN THIRTY (30) CALENDAR DAYS OF THE DATE OF THE RESOLUTION.**
- **IF THE PROPERTY OWNER EVICTS/REMOVES ALL TENANTS INCLUDING THEMSELVES FROM THE PROPERTY AND SINGLE-FAMILY DWELLING THEY ARE REQUIRED TO COMMENCE THE SECURING OF THE GARAGE AND SINGLE-FAMILY DWELLING FROM UNAUTHORIZED ENTRY PER THE CITY OF MODESTO BOARD UP SPECIFICATIONS ATTACHED TO THE NOTICE AND ORDER WITHIN THIRTY (30) CALENDAR DAYS OF THE DATE OF THE RESOLUTION.**
- **AFFIRM THE CIVIL PENALTIES IN THE AMOUNT OF \$8,750 AND HOLD THEM IN ABEYANCE TO ALLOW THE PROPERTY OWNER THIRTY (30) CALENDAR DAYS FROM THE DATE OF THE RESOLUTION TO COMPLY WITH THE RESOLUTION**
- **AFFIRM THAT CIVIL PENALTIES IN THE AMOUNT OF \$250 PER DAY WILL CONTINUE TO ACCRUE.**
- **AFFIRM THE HEARING COST OF \$562.35.**

**IF THE NUISANCE IS NOT ABATED WITHIN THE SPECIFIED TIME, THE CITY OF MODESTO SHALL PROCEED WITH THE ADMINISTRATIVE ABATEMENT ACTION AND THE EXPENSE THEREOF MADE A PERSONAL OBLIGATION OF THE PROPERTY OWNER AND A LIEN ON THE LOT OR PARCEL LAND UPON WHICH SAID BUILDINGS ARE LOCATED.**

BE IT FURTHER RESOLVED that within thirty (30) days after passage of this Resolution No. 2019-10, declaring a nuisance and directing abatement of the nuisance, the City of Modesto shall cause to be posted a copy of said resolution conspicuously on the buildings so declared to be a nuisance and mail another copy of the resolution by certified mail, postage prepaid, return receipt requested, to (1) the person(s) owning the land on which the buildings are located as such person's name and address appear on the last equalized assessment roll, and (2) to each mortgagee or beneficiary under any deed of trust, of record, at the last known address of such mortgagee or beneficiary. The officer or employee giving notice as aforesaid, shall file an affidavit thereof in the manner provided for in California Code of Regulations, Title 25, Division 1, Chapter 1, Subchapter 1, Article 6, Section 58.

The foregoing matter was introduced at the regular meeting of the Board of Building Appeals of the City of Modesto held on the 23<sup>rd</sup> day of May 2019, by Board Member, Evan Yoshino, who moved its adoption, which motion being duly seconded by Board Member, Richard Dalton, was upon roll call carried in the resolution adopted by the following vote:

Ayes: Bergman, Dalton, Yoshino, Reid  
Noes: None  
Absent: Wungluck

BY ORDER OF THE BOARD OF BUILDING APPEALS OF THE CITY OF MODESTO.

  
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RICK REID  
BOARD OF BUILDING APPEALS

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**PROOF OF SERVICE - CCP §1013(a)(3)**

I am employed in the County of Stanislaus, State of California. I am over the age of eighteen years and not a party to the within entitled cause; my business address is: 1010 10<sup>th</sup> Street, Modesto, California 95354.

On June 7, 2019, I served a copy of the NOTICE OF PASSAGE OF RESOLUTION for 3520 BERESFORD DRIVE , Modesto, California; Assessor's Parcel No. 079-003-019 on all parties in said action by serving a true copy thereof as follows:

**TO: KIMBERLY R DELANEY  
3520 BERESFORD DRIVE  
MODESTO, CA 95357**

  X  

**BY MAIL:** I deposited the sealed envelope with the postage thereon fully prepaid to - the office's practice for collection and processing of correspondence for mailing, and pursuant to those practices the envelope would be deposited with the United States Postal Service the same day.

  X  

**BY CERTIFIED MAIL:** I deposited the sealed envelope with the postage thereon fully prepaid to be placed in the United States Mail at Modesto, California. I am readily familiar with the office's practice for collection and processing of correspondence for mailing, and pursuant to those practices the envelope would be deposited with the United States Postal Service the same day.

       **BY PERSONAL SERVICE:** I caused the within document to be hand delivered to the parties herein at the addresses set forth above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. I executed this 7<sup>th</sup> day of June 2019, at Modesto, California.

NPU2019-00711



\_\_\_\_\_  
Carmen Piña  
Administrative Office Assistant III