

# NOTICE OF SPECIAL MEETING


Pursuant to Section 54956 of the Government Code of the State of California, a Special meeting of the **Tracy City Council** is hereby called for:

**Date/Time:** **Tuesday, May 22, 2018, 4:00 p.m.**  
(or as soon thereafter as possible)

**Location:** **Council Chambers, City Hall**  
**333 Civic Center Plaza, Tracy**

Government Code Section 54954.3 states that every public meeting shall provide an opportunity for the public to address the Tracy City Council on any item, before or during consideration of the item, however no action shall be taken on any item not on the agenda.

1. Call to Order
2. Roll Call
3. Items from the Audience - *In accordance with Procedures for Preparation, Posting and Distribution of Agendas and the Conduct of Public Meetings, adopted by Resolution 2015-052 any item not on the agenda brought up by the public at a meeting, shall be automatically referred to staff. If staff is not able to resolve the matter satisfactorily, the member of the public may request a Council Member to sponsor the item for discussion at a future meeting.*
4. TO CONSIDER AN APPEAL OF THE CITY OF TRACY'S NOTICE AND ORDER FOR PROPERTY LOCATED AT 714 CENTRAL AVENUE – THE GREAT PLATE
5. Adjournment



Mayor

## **Thursday, May 10, 2018**

The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in public meetings. Persons requiring assistance or auxiliary aids in order to participate should call City Hall (209-831-6105), at least 24 hours prior to the meeting.

Any materials distributed to the majority of the Tracy City Council regarding any item on this agenda will be made available for public inspection in the City Clerk's office located at 333 Civic Center Plaza, Tracy, during normal business hours.

AGENDA ITEM 4

REQUEST

**TO CONSIDER AN APPEAL OF THE CITY OF TRACY'S NOTICE AND ORDER FOR PROPERTY LOCATED AT 714 CENTRAL AVENUE – THE GREAT PLATE**

EXECUTIVE SUMMARY

Since December 2008, the City of Tracy Code Enforcement Division has conducted multiple inspections of the property located at 714 Central Avenue, also known as The Great Plate ("the Property"), and observed structural issues and numerous violations of State and local laws. The property owner has failed correct the violations and ensure a safe property. In the current condition, the Property creates a grave safety hazard for the surrounding neighborhood.

DISCUSSION

On December 4, 2008, City Code Enforcement staff inspected the Property and observed structural alterations to the second floor of the building including new interior walls and a bar area at the north side of the building. Staff issued a violation notice and stop work order to the property owner.

On December 30, 2008, staff re-inspected the property, per the owner's request, and observed cracks in the unreinforced masonry walls of the building. Staff noted that two of the cracks in the walls began at the roofline and extended to the foundation of the building. Additional cracks observed in the north, east, and south walls, each significant in length – approximately four feet. On the second floor, staff observed that a structural wood member at the east wall was missing attachments to the masonry. Further inspection of the basement areas revealed electrical code violations, including: a conduit separated from the connector at the ceiling light in the basement below the dining area, a subpanel located in the northwest corner with no dead front, missing knockout seals and a current panel schedule, flexible metal conduits and electrical metallic tubing attached to this subpanel and lacked the required straps. In addition, staff observed a pair of posts supporting the floor load above the basement were missing the beam and blocking the ceiling and floor line in the basement. Staff also observed evidence of water contacting the basement posts.

The City issued an "electrical work only" permit for the bar area of the second floor, and that permit was approved and finales as complete by Building Inspection staff on December 31, 2008. However, to date, the owner of the property has not corrected the other violations observed in 2008.

On June 28, 2012, Code Enforcement staff inspected the property after receiving reports from the business operators of hazardous electrical wiring, inadequate exiting facilities and the safety of their customers as a result of these conditions. Staff observed damaged stair rails at the east second floor exit and that alterations had been made to the building without the required permits. In addition, staff observed extension cords

were used throughout the second floor in place of required fixed wiring.. Staff also observed an incomplete two-hour fire separation wall separating the A Occupancy (Assembly) from the S Occupancy (Storage) along with openings and non-permitted electrical wiring passing through the rated assembly. A storage area adjacent to the A Occupancy posed a fire hazard because it contained trash, garbage, construction debris, wood and cardboard scraps, and broken appliances. Additionally, staff observed exposed energized conductors in the uncovered box within the stairwell at the south side of the second floor.

During the inspection of the first floor, staff noted electrical violations like those found on the second floor. Extension cords were being used as a fixed wiring method and had been stapled to the ceiling in the main bar area. The property owner had not completed the termination of the two-hour fire separation wall. In addition, staff observed the ceiling over the bar area was covered with combustible woven fiber, which presented a fire hazard. Staff issued a Notice and Order on June 28, 2012 to correct the violations observed during his inspection on that date and those remaining from 2008. The property owner has not made the necessary corrections and the building remains unsafe.

On March 24, 2016, during a subsequent inspection, City staff inspected the interior of the property and observed a noticeable downward slope in the first floor at the north end of the bar area with an approximate six inch drop from the west edge of the liquor cabinet to the underside of the glass dishwasher. The slope of the floor on the first floor extended from the west side entry to the east side at the back of the bar area. In addition, on the west side of the Property, he observed damage along the brick and window ledge. The window ledge at both sides of the southwest entry of the Property was buckled and the brick was pushed away from the building.

On March 24, 2016, the City of Tracy issued an Order to Vacate after the City's Building Inspector determined that the Property's structural deficiencies made the building unsafe to occupy. That order is the basis of this appeal.

The City's decision to tag the property as dangerous was due to structural deficiencies discovered during numerous inspections and failure to abate the violations outlined in said Notice and Order, dated February 2, 2009.

Based on the City's staff inspections of the structure inspections concluded the property is dangerous under the 1997 Uniform Code for the Abatement of Dangerous Buildings, section 302 which states "...any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered." The conditions or defects contained within subdivisions 1, 2, 5, 8, 9, 13 and 16 of section 302 of the Uniform Code for the Abatement of Dangerous Buildings were observed for this property and are as follows:

- (1) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

- (2) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
- (5) Whenever any portion thereof or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
- (8) Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration or decay; (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
- (9) Whenever for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- (13) Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location, or structure of buildings.
- (16) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exists, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.

This code was adopted by reference in Tracy Municipal Code section 9.24.030. These conditions currently exist at the property.

The Order to Vacate required the owner to correct violations of 2016 California Building Code sections 105.1, 110.1.1, 111.1 (adopted by reference in Tracy Municipal Code section 9.04.030), 1997 Uniform Code for the Abatement of Dangerous Buildings section 302, subdivisions (1), (2), (5), (8), (9), (13), and (16) (adopted by reference in Tracy Municipal Code section 9.24.030), California Health and Safety Code section 17920.3, subdivisions (b)(4), (d), (f), (j), and (l) and correct items that make the Property unsafe.

Tracy Municipal Code section 9.24.020 addresses dangerous buildings and states “[t]he purpose of this chapter is to provide a just, equitable, and practicable method, to be cumulative with and in addition to any other remedy provided by title 9 of this Code, or otherwise available by law, whereby buildings or structures which from any cause endanger life, limb, health, morals, property, safety, or welfare of the general public or their occupants may be required to be repaired, vacated, or demolished.”

The property owner hired RAS Engineers and Associates to inspect the property in response to the City’s March 24, 2016 Notice and Order. The City received a letter, dated April 28, 2016, from Richard A. Strand of RAS Engineers and Associates. In this letter, Mr. Strand stated he observed the following:

- the floor joists in the bar area need complete replacement, the foundation on the side of the building facing Central Avenue is compromised
- the foundation along the north and west side of the building show signs of differential settlement
- the beam running front to back at the bar area is sloping and deflecting, and
- the second floor joists are sloping and deflecting from the building settlement.

Mr. Strand's observations confirmed the City's findings that the building is dangerous. The City hired an independent structural engineer, Mozzafari Engineering ("Mozzafari"), to evaluate the building, and with the consent of the Property owner, Mozzafari performed an inspection of the property on August 26, 2016. The August 26, 2016 inspection revealed multiple deficiencies in the structure of the building due to the unreinforced masonry and compromised floor systems on the first and second floors.

Due to concerns for further deterioration of the structure of the building associated with heavy rainfall and no activity from the property owner towards remediation of the deficiencies in the building, Mozzafari inspected the property on February 27, 2017. Because the City was not able to access the interior of the building, Mozzafari inspected the building exterior only. The exterior inspection revealed the following:

- the masonry chimney at the south wall is leaning and deteriorated
- the overhang at the west side of the building, directly over the public right of way, has deteriorated and appears to have become partially detached from the structure, and
- cracked mortar joints in the unreinforced masonry pilasters/columns on the west side of the building that may support the steel beam under the second floor unreinforced masonry wall.

Over a year after the City issued an Order to Vacate the Property, the owner of the Property has only applied for a demolition permit from the City and completed demolition of the interior flooring on the first floor; the property owner has not completed any other required corrective work.

Furthermore, the present condition of the property constitutes a nuisance under Tracy Municipal Code section 5.20.050. The property has been cited for an accumulation of garbage and refuse remaining on the property for longer than seven days, and generally contributes to the unsightly blight in the neighborhood and the community at large.

The current condition of the property has continued for over nine years and has not improved or changed during this period. Staff's inspections revealed the property has been and continues to be in violation of several local and State codes, including Tracy Municipal Code section 9.24.030 and that the property is dangerous and a hazard to the general public.

The City attempted, on numerous occasions to gain permission from the property owner to inspect the interior of the building, but the property owner denied access to the City since 2016.

On November 3, 2017 the property owners of 714 Central Avenue appealed the City's Notice and Order. A hearing was conducted by the City of Tracy's Building Board of

Appeals on January 25, 2018 and continued to March 21, 2018. After two days of hearings, the Board upheld the City's Notice and Order. That decision has been appealed to the City Council, which is the basis of this hearing today.

**RECOMMENDATION**

Staff recommends City Council consider the findings and actions taken by the City of Tracy to ensure the health, life and safety of the community and uphold the City's Notice and Order dated March 24, 2016.

Prepared by: Ana Contreras, Code Enforcement Manager

Reviewed and Approved by: Thomas Watson, City Attorney

**ATTACHMENTS**

Attachment A: Notice and Order/Order to Vacate

Attachment B: Mozafari Report dated 9/8/2016

Attachment C: Board of Appeal Resolution



City of Tracy  
Development & Engineering Services Department  
Code Enforcement Division  
333 Civic Center Plaza  
Tracy, CA 95376

## **ORDER TO VACATE**

**IT IS UNLAWFUL TO OCCUPY THIS BUILDING AFTER MARCH 24, 2016  
DO NOT ENTER THIS BUILDING AFTER MARCH 24, 2016**

Date: March 24, 2016  
Case Number: 16CD-0188  
Assessor Parcel Number: 235-162-09  
Business Name: The Great Plate  
Property Address: 714 North Central Avenue, Tracy, California 95376

Property Owners: BBS Adventures, LLC  
Mailing Address: P.O. BOX 4471, Vallejo, CA 94590

**BBS ADVENTURES LLC,  
AS OWNERS OF THE ABOVE REFERENCED PROPERTY,  
YOU ARE HEREBY SERVED THIS  
ORDER TO VACATE**

Pursuant to Section 404.2 of the Uniform Code for the Abatement of Dangerous Buildings, "no person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish, or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal has been completed and a Certificate of Occupancy has been issued pursuant to the provisions of the Building Code".

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An inspection of the building was performed on March 21, 2016, per a report of deflection on the first floor of the building, at the north side of the bar area. A noticeable downward slope in the floor was observed at the north end of the bar area with approximately a six inch drop from the west edge of the liquor cabinet to the underside of the glass dishwasher. More deflection of the floor was noted at the column located east of the northwest entrance and extending to the northeast corner of the bar area by the kitchen entry. The slope was from the west side entry towards the east side at the back of the bar. The tenant stated he noticed the floor deflection in the bar area about four to six months ago. A check of a small basement located at the southwest corner of the bar did not reveal the presence of moisture or standing water. No leaking pipes were observed in this area. The tenant stated that a portion the floor at the northeast corner by the kitchen door was repaired due to moisture and mold approximately 16

Order to Vacate  
714 Central Avenue  
Case Number: 16CD-0188  
March 23, 2016  
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months ago but no inspection of the damage or the repair work was performed by the City of Tracy Building Inspection Division. At the west side of the building, damage was observed along the brick and window ledge. The window ledge at both sides of the southwest entry was buckled and the brick was pushed away from the building. Due to the areas of deflection without apparent cause, the City of Tracy Supervising Building Inspector advised the tenant that a structural engineer's opinion was required in order to evaluate the entire building and address these newfound deficiencies, as well as the structural deficiencies outlined in the Notice and Order dated February 3, 2009 (attached). As a result of the structural deficiencies observed during the inspection on March 21, 2016, the City deems the building, 714 Central Avenue, unsafe to occupy and hereby orders the tenants to vacate per the City of Tracy Chief Building Official. The structure may only be occupied for the purposes of performing work outlined in Notice and Orders dated March 24, 2016, June 28, 2012 and February 3, 2009.



\_\_\_\_\_  
ANA CONTRERAS  
Community Preservation Manager



\_\_\_\_\_  
DATE

cc: Bradley S. Albom, Registered Agent and Managing Member

Attachments: Notice and Orders dated February 3, 2009, June 28, 2012, and March 21, 2016





City of Tracy  
Development Services Department  
Code Enforcement Division  
333 Civic Center Plaza  
Tracy, CA 95376  
(209) 831-6410

### **NOTICE AND ORDER**

Date: March 24, 2016  
Case Number: 16CD-0188  
Assessor Parcel Number: 235-162-09  
Property Address: 714 North Central Avenue, Tracy, CA 95376

Property Owner: BBS Adventures LLC  
Mailing Address: P.O. Box 4471, Vallejo, CA 94590

**BBS ADVENTURES LLC,  
AS OWNER OF THE ABOVE REFERENCED PROPERTY,  
YOU ARE HEREBY SERVED THIS NOTICE AND ORDER**

The City of Tracy (City) has received and confirmed reports of violations on residential property located at 714 North Central Avenue, Tracy, hereinafter referred to as "referenced property", specifically violations relative to the 2013 California Building Code (CBC), 2013 California Residential Code (CRC), the 1997 Uniform Housing Code (UHC), and the Uniform Code for the Abatement of Dangerous Buildings (UCADB), and Section 10.08.3460 (a) of the Tracy Municipal Code.

Code Enforcement staff inspected the referenced property on March 21, 2016, per a complaint of deflection in the first floor at the north side of the bar area at 11:15 hours with the tenant present and verbal consent to inspect given. A noticeable downward slope in the floor was observed at the north end of the bar area with approximately a six inch drop from the west edge of the liquor cabinet to the underside of the glass washing machine. More deflection of the floor was noted at the column located east of the north west entrance and extending to the north east corner of the bar area by the kitchen entry. The slope was from the west side entry towards the east side at the back of the bar. The tenant stated that he noticed the floor deflection in the bar area about four to six months ago. A check of a small basement located at the southwest corner of the bar revealed no presence of moisture or standing water. No leaking pipes were observed in this area. The tenant stated that a portion the floor at the northeast corner by the kitchen door was repaired due to moisture and mold approximately 16 months ago; however, no inspection of the damage or the repair work was performed by the City as the work was done without the benefit of City Building Permits. At the west side of the building, damage to the brick and window ledge was observed. The window ledges, at both sides of the southwest entry, were

buckled and the brick was being pushed away from the building. The tenant was advised that a structural engineer would be required to evaluate the structural integrity of the entire building for a determination of the cause of this deflection. Previous structural issues and repairs were addressed in the City of Tracy Notice and Order dated February 9, 2009 (attached), which required a structural analysis of the building that addressed the seismic and lateral force stability issues, in addition to repairs needed for the damaged unreinforced brick masonry walls. This order was not complied with. Said report requires signature by the engineer of record verifying the recommended repairs and mitigation measures, if any, met their design consideration.

Based on the most recent inspection and discoveries, the building is hereby considered substandard and ordered vacated.

### VIOLATION DEFINITIONS

The following table lists current violations present at the referenced property that require correction prior to occupancy:

CODE SECTION	VIOLATION
CBC §105.1	Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.
CBC §111.1	Use and Occupancy. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefore as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.
CFC §110.1.1	Unsafe conditions. Structures or existing equipment that are or hereafter become unsafe or deficient because of inadequate means of egress or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. A vacant structure which is not secured against unauthorized entry as required by Section 311 shall be deemed unsafe.

<p>UCADB §302,          (1), (2), (5),          (8), (9), (13),          (16)</p>	<p>Dangerous Buildings. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic. ...</p> <p>2. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic....</p> <p>5. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged or to collapse and thereby injure persons or damage property....</p> <p>8. Whenever the building or structure or any portion thereof, because of (i) dilapidation, deterioration or decay (ii) faulty construction (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.</p> <p>9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used...</p> <p>13. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings. ...</p> <p>16. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire resistant construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Marshall to be a fire hazard....</p>
<p>H&amp;S 17920.3          (b)(4), (d),          (f), (j), (l)</p>	<p>(b) Structural hazards shall include, but not be limited to, the following: ...</p> <p>(4) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration ...</p> <p>(d) All wiring, except that which conformed with all applicable laws in effect at the time of installation if it is currently in good and safe condition and working properly. ...</p> <p>(f) All mechanical equipment, including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good and safe condition, or which may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly. ...</p> <p>(j) Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris. Garbage, offal, rodent harborages, stagnant water, combustible materials, and similar materials or</p>

	conditions constitute fire, health, or safety hazards.... (l) All buildings or portions thereof not provided with adequate exit facilities as required by this code, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and which have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or to any change in occupancy. When an unsafe condition exists through lack of, or improper location of, exits, additional exits may be required to be installed.
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**Copies of all Codes cited are available for review in the City Clerk's Office.**

***CORRECTIONS AND DEADLINE DATES***

**ON MARCH 24, 2016**

**Vacate the building by 5:00 p.m.** The building shall remain vacant and secured until the City of Tracy has received, reviewed, and accepted the report to be submitted by a licensed structural engineer and signed by the engineer of record and all required plan check approvals and building permits have been issued to correct the deficiencies.

**ON OR BEFORE APRIL 4, 2016**

*CHOOSE ONE OF THE FOLLOWING ACTIONS:*

Submit to the City of Tracy Code Enforcement Division the required structural engineer's report, signed by the engineer of record. Said report must provide an analysis of the *entire building*, including the structural deficiencies outlined in the Notice and Order dated February 3, 2009.

**OR**

Submit application for a City of Tracy Demolition Permit. Begin asbestos or other haz-mat remediation and apply for a demolition release from the San Joaquin Air Pollution Control District.

**ON OR BEFORE APRIL 15, 2016**

Obtain all required City of Tracy Building Permits for the repair of the structure OR obtain Demolition Permit and begin demolition of the structure.

**ON OR BEFORE MAY 10, 2016**

All repairs must be completed or the building demolished. Building permits must be signed off by this date deeming the repairs or demolition complete.

**All building and zoning requirements must be met before a permit will be issued.**

Notice and Order  
BBS Adventures - 714 N Central Avenue  
March 24, 2016  
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Any person having any record title or legal interest in the building may appeal from the Notice and Order or any action of the building official to the board of appeals, provided the appeal is made in writing as provided in this code and filed with the building official within 30 days from the date of service of the Notice and Order (by **May 2, 2016**). Failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

Failure to respond to this order may result in further action, up to and including Administrative and/or Criminal Citations issued for each day the violations continue to exist until all work set forth above is completed. Pursuant to Tracy Municipal Code Section 1.28, this Notice and Order serves as notification that the Tracy Municipal Code provides the legal authority to issue Administrative Citations for TMC Code violations. The fines are \$100.00 for the first citation, \$200.00 for the second, \$500.00 for the third and subsequent citations for violations of the same code section within one year. These fines are cumulative and new citations may be issued for *each day the violation continues to exist*. A person who receives an Administrative Citation may contest the citation in the form of an appeal. Details regarding the appeal process are set forth in Chapter 1.28, attached.

If you do not abate the above-described nuisance on or before the dates set forth above, or if you do not provide the City of Tracy Code Enforcement Division with a written request for an administrative hearing on this matter and an administrative hearing officer does not specify otherwise at any hearing that may be held, the City may enter the property and abate the nuisance. Pursuant to TMC Sections 1.32.060, 1.32.070, 1.32.080 and 1.32.090, the cost of abatement may become a charge against you personally and a lien or special assessment against the referenced property. Be advised that, due to administrative overhead and other costs related with being a public entity, the City's cost will likely be ***much higher*** than the cost of abating the nuisance by you or your contractor. A person who receives an Administrative Citation may contest the citation in the form of an appeal. Details regarding the appeal process are set forth in Chapter 1.28, attached.

Please be further advised that California law authorizes the Court to appoint a receiver to take possession of your property for the purposes of abating all nuisances. Pursuant to that receivership process, the receiver may have the ability to sell the property to recover all costs of abating the nuisance, including attorney fees, with the receiver's lien taking priority over any liens on the property that may be in effect at the time of the sale.

Pursuant to Tracy Municipal Code Section 10.08.4905, this property continues to be in violation of the Tracy Municipal Code, therefore, the violations on record will be filed with the San Joaquin County Recorder's Office. If you, as the owner, correct said violations or the property otherwise becomes conforming after the notice is recorded, and the owner has notified the City in writing and consented to an inspection to confirm corrections, the Director of Development and Engineering Services shall record a release or cancellation of the notice of violation.

Notice and Order  
BBS Adventures - 714 N Central Avenue  
March 24, 2016  
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Information regarding this Notice and Order and the provisions contained herein is available in the Development Services Department, City Hall, (209) 831-6410.

  
\_\_\_\_\_  
JIM DECKER  
Code Enforcement Officer/Building Inspector II

\_\_\_\_\_  
03/24/16  
Date

Attachments: Notice and Orders dated February 3, 2009, June 28, 2012, and March 21, 2016  
TMC Chapter 1.28, Administrative Citations

cc: Bradley S. Albom, Registered Agent and Managing Member

JD:AC



CITY OF TRACY  
Development & Engineering Services Division  
CODE ENFORCEMENT DIVISION  
333 Civic Center Plaza  
Tracy, CA 95376  
(209) 831-6410

## NOTICE AND ORDER

Date: June 28, 2012  
Case Number: 12CD-0370  
Assessor Parcel Number: 235-162-09  
Business Name: The Great Plate  
Property Address: 714 North Central Avenue, Tracy, California 95376  
Property Owners: BBS Adventures, LLC  
Mailing Address: P.O. Box 4471, Vallejo, CA 94590

Business Owner: Jacobo Gallegos  
Mailing Address: 261 Butte Way, Tracy, CA 95376

Business Owner: Antonio Andrade Rodriguez  
Mailing Address: 1804 San Antonio Way, Oakland, CA 94606

**BBS ADVENTURES LLC,  
AS OWNERS OF THE ABOVE REFERENCED PROPERTY,  
YOU ARE HEREBY SERVED THIS NOTICE AND ORDER**

The City of Tracy (City) has received and confirmed information regarding the commercial property located at 714 North Central Avenue, Tracy, California, specifically regarding violations of the 2010 California Building Code (CBC), 2010 California Electrical Code (CEC), 2010 California Fire Code (CFC), 2010 California Mechanical Code (CMC), Uniform Code Abatement of Dangerous Buildings (UCADB), California Health and Safety Code (H&S) Section 17920.3, and land use violations of the Tracy Municipal Code (TMC).

City staff again inspected the above-referenced property on June 28, 2012. The following is a description of what staff observed:

*This inspection was done in reference to complaints of hazardous electrical wiring and inadequate exiting facilities. Additional violations, including but not limited to damaged stair rails at the east second floor exit, and alterations without permits were observed at the time this inspection was done. City staff performed an inspection of this building and found multiple violations of the 2010 California Building Code (CBC), 2010 California Electrical Code (CEC), 2010 California Fire Code (CFC), 2010 California Mechanical Code (CMC), Uniform Code Abatement of Dangerous Buildings (UCADB), California Health and Safety Code (H&S) Section 17920.3, and land use violations of*

*the Tracy Municipal Code (TMC). The violations were numerous and affected life safety for the employees and the members of the public who use the facility. Violations are listed as follows:*

*The east exterior stairwell at the second floor landing had damaged railings, both top and bottom. Extension cords were found throughout the second floor area, used in place of required fixed wiring methods. The required two hour fire separation wall separating the A Occupancy from the S Occupancy was not complete, and contained openings and non-permit electrical wiring passing through the rated assembly. A door formerly used as a second floor exit at the south wall of the building was found unsecured and accessible to the public with a fall hazard at the exterior opening. The electrical subpanel at the north end of the second floor hallway was deemed inaccessible due to construction tools and materials being placed in the hallway. An electrical light fixture was installed behind the mirrored bar, with an extension cord, and with open splices. Stage lighting and sound equipment was installed throughout the open truss area in the second floor using extension cords without the required receptacles. The partially completed dry-bar at the north end of the second floor contains numerous extension cords and power strips used as a make-shift electrical distribution system. The previously permitted and partially inspected wiring has not been completed to this area.*

*The storage area adjacent to the A Occupancy contains trash, garbage, construction debris, wood and cardboard scraps, broken appliances, and poses a distinct fire hazard. Cable type wiring methods not enclosed in required sheetrock. The required fire door separating these two occupancies has not been installed, nor has the required fire damper for a mechanical duct passing through the two hour fire wall.*

*The stairwell at the south side of the second floor is missing the required light fixture. Exposed energized conductors are present in the uncovered box within the stairwell. The required 48-inch wide exit door at the downstairs exit of the building has not been installed. Light fixtures have been installed in this hall without boxes, using open splices and extension cords. The required repairs to the unreinforced masonry on both floors at the north wall of the building have not been completed.*

*Continuing the inspection of the first floor, similar electrical violations were found in the "game room" including, but not limited to extension cords used as a fixed wiring method, open splices of electrical cords, non-permitted construction of interior non-bearing walls. Extension cords were also observed being used and stapled to the ceiling in the main bar downstairs. The termination of the two hour fire separation wall at the first floor has not been completed. The ceiling over the bar area in the first floor has been covered with combustible woven fiber. No record of required fire treatment or documentation for this material has been provided. The existing hood and duct fire suppression system within the kitchen has not been upgraded to the current UL 300 standard, and has been in violation since 2009. The establishment is currently being used as a night club which is a non-permitted use.*



The following table lists current violations present at the referenced property that must be corrected:

Code Section	Violation
CBC § 105.1 Permits Required.	Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.
CBC § 111.1	Use and Occupancy. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefore as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.
CFC § 304.1.1	Waste Material. Accumulations of wastepaper, wood, hay, straw, weeds, litter or combustible or flammable waste or rubbish of any type shall not be permitted to remain on a roof or any court, yard, vacant lot, alley, parking lot, open space, or beneath a grandstand, bleacher, pier, wharf, manufactured home, recreational vehicle or similar structure.
CFC § 904.11	Commercial Cooking Systems. Commercial cooking equipment that produce grease laden vapors shall be provided with a Type I Hood, in accordance with the California Mechanical Code, and an automated fire extinguishing system that is listed and labeled for its intended use as follows: 1. Wet chemical extinguishing system complying with UL 300 ... >All existing dry chemical and wet chemical extinguishing systems shall comply with UL 300. ...
CFC § 609	Commercial Kitchen Hoods. 609.1 General. Commercial kitchen exhaust hoods shall comply with the requirements of the <i>California Mechanical Code</i> . 609.2 Where required. A Type I hood shall be installed at or above all commercial cooking appliances and domestic cooking appliances used for commercial purposes that produce grease vapors. 609.3 Operations and maintenance. Commercial cooking systems shall be operated and maintained in accordance with Sections 609.3.1 through 609.3.4. 609.3.1 Ventilation system. The ventilation system in connection with hoods shall be operated at the required rate of air movement, and classified grease filters shall be in place when equipment under a kitchen grease hood is used. 609.3.2 Grease extractors. Where grease extractors are installed, they shall be operated when the commercial-type cooking equipment is used. 609.3.3 Cleaning. Hoods, grease-removal devices, fans, ducts and other appurtenances shall be cleaned at intervals as required by

Sections 609.3.3.1 through 609.3.3.3.  
 609.3.3.1 Inspection. Hoods, grease-removal devices, fans, ducts and other appurtenances shall be inspected at intervals specified in Table 609.3.3.1 or as *approved by the fire code official*. Inspections shall be completed by qualified individuals.

TABLE 609.3.3.1 COMMERCIAL COOKING SYSTEM INSPECTION FREQUENCY

TYPE OF COOKING OPERATIONS	FREQUENCY OF INSPECTION
High-volume cooking operations such as 24-hour cooking, charbroiling or wok cooking	3 months
Low-volume cooking operations such as places of religious worship, seasonal businesses and senior centers	12 months
Cooking operations utilizing solid-fuel burning cooking appliances	1 month
All other cooking operations	6 months

609.3.3.2 Grease accumulation. If during the inspection it is found that hoods, grease-removal devices, fans, ducts or other appurtenances have an accumulation of grease, such components shall be cleaned.  
 609.3.3.3 Records. Records for inspections shall state the individual and company performing the inspection, a description of the inspection and when the inspection took place. Records for cleanings shall state the individual and company performing the cleaning and when the cleaning took place. Such records shall be completed after each inspection or cleaning, maintained on the premises for a minimum of three years and be copied to the *fire code official* upon request.  
 609.3.4 Extinguishing system service. Automatic fire- extinguishing systems protecting commercial cooking systems shall be serviced as required in Section 904.11.6.

CFC 803.4

Fire-Retardant Coatings. The required flame spread or smoke-developed index of surfaces in existing buildings shall be allowed to be achieved by application of approved fire-retardant coatings, paints or solutions to surfaces having a flame spread index exceeding that allowed. Such applications shall comply with NFPA 703 and the required fire-retardant properties shall be maintained or renewed in accordance with the manufacturer's instructions.

<p>CMC § 516.6</p>	<p>Use and Maintenance.</p> <p>516.6.1 Automated or manual covers on cooking appliances, especially fryers, shall not interfere with the application of the fire suppression system. [NFPS 96:13.6.1]</p> <p>516.6.2 All filters shall be cleaned or replaced in accordance with the manufacturer's instructions. [NFPA 96:13.6.2]</p> <p>516.6.3 All ESPs shall be cleaned a minimum of once per week following the manufacturer's cleaning instructions. [NFPA 96:13.6.3]</p> <p>516.6.4 The entire hood plenum and the blower section shall be cleaned a minimum of once every three (3) months. [NFPA 96:13.6.4]</p> <p>516.6.5 Inspection and testing of the total operation and all safety interlocks in accordance with the manufacturer's instructions shall be performed by qualified service personnel a minimum of once every six (6) months, or more frequently if required. [NFPA 96:13.6.5]</p> <p>516.6.6 Fire-extinguishing equipment shall be inspected in accordance with Section 514.2. [NFPA 96:13.6.6]</p> <p>516.6.7 A signed and dated log of maintenance as performed in accordance with Sections 516.6.4 and 516.6.5 shall be available on the premises for use by the Authority Having Jurisdiction. [NFPA 96:13.6.7]</p>
<p>UCADB § 302, (1), (2), (5), (8), (9), (13), (16)</p>	<p>Dangerous Buildings. ...</p> <ol style="list-style-type: none"> <li>1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.</li> <li>2. Whenever the walking surface of any aisle, passageway, stairway of other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic. ...</li> <li>5. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged or to collapse and thereby injure persons or damage property. ...</li> <li>8. Whenever the building or structure or any portion thereof, because of (i) dilapidation, deterioration or decay (ii) faulty construction (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.</li> <li>9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used. ...</li> <li>13. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings. ...</li> <li>16. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire resistant construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Marshall to be a fire hazard. ...</li> </ol>

<p>H&amp;S 17920.3 (b-4), (d), (f), (j), (l)</p>	<p>(b) Structural hazards shall include, but not be limited to, the following: ...          (4) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration          (d) All wiring, except that which conformed with all applicable laws in effect at the time of installation if it is currently in good and safe condition and working properly.          (f) All mechanical equipment, including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good and safe condition, or which may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly.          (j) Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, Garbage, offal, rodent harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards.          (l) All buildings or portions thereof not provided with adequate exit facilities as required by this code, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and which have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or to any change in occupancy. When an unsafe condition exists through lack of, or improper location of, exits, additional exits may be required to be installed.</p>
<p>CEC § 110.3 (B)</p>	<p>Installation and Use. Listed or labeled equipment shall be installed and used in accordance with any instructions included with the listing or labeling.</p>
<p>CEC § 201.50 (B)</p>	<p>Cord Connections. A receptacle outlet shall be installed wherever flexible cords with attachment plugs are used. ...</p>
<p>CEC § 334.10 (3)</p>	<p>Uses Permitted.          334.10 (3) Other structures permitted to be of Types III, IV, and V construction except as prohibited in 334.12. Cables shall be concealed within walls, floors, or ceilings that provide a thermal barrier of material that has at least a 15-minute finish rating as identified in listings of fire-rated assemblies.</p>
<p>CEC § 400.8</p>	<p>Uses Not Permitted. Unless specifically permitted in 400.7 flexible cords and cables shall not be used for the following:</p> <ol style="list-style-type: none"> <li>1. As a substitute for the fixed wiring of a structure</li> <li>2. Where run through holes in walls, structural ceilings, suspended ceilings, dropped ceilings, or floors</li> <li>3. Where run through doorways, windows, or similar openings</li> <li>4. Where attached to building surfaces</li> <li>5. Where concealed by walls, floors, or ceilings or located above suspended or dropped ceilings</li> <li>6. Where installed in raceways, except as otherwise permitted in this Code</li> <li>7. Where subject to physical damage</li> </ol>

CEC § 400.9	Splices. Flexible cord shall be used only in continuous lengths without splice or tap where initially installed in applications permitted by 400.7 (A). The repair of hard-service cord and junior hard-service cord (see Trade Name column in Table 400.4) 14 AWG and larger shall be permitted if conductors are spliced in accordance with 110.14(B) and the completed splice retains the insulation, outer sheath properties, and usage characteristics of the cord being spliced.
CEC § 410.2	Outlet Boxes to be Covered. In a completed installation, each outlet box shall be provided with a cover unless covered by means of a luminaries (fixture) canopy, lamp holder, receptacle, or similar device.
TMC § 5.20.050	Accumulation of Garbage and Refuse is Prohibited. The accumulation of refuse and solid waste, which creates filth, shall be prohibited. No owner, lessee, agent, or occupant of any lot or parcel of land upon which a building of any kind may exist or any vacant lot or parcel of land shall allow any accumulation of refuse or solid waste matter of any kind or description to remain on a lot or parcel of land for longer than seven (7) days.
TMC § 10.08.1070	Uses Not Permitted. Any use not authorized in a particular zone by this article as a regular principle use, conditional use, special use, or accessory use shall be prohibited until so authorized in the particular zone in accordance with the procedures and requirements of Article 23 of this Chapter relative to uses not listed. (Prior Code § 10-2.502)

Copies of all Codes cited above are available for review in the City Clerk's Office.

**Corrections Required:**

**On or before June 29, 2012 take the following corrective action(s):**

- Vacate and secure the second floor.
- Disconnect and remove all extension cords used in lieu of fixed wiring methods in the building.
- Discontinue the non-permitted use of the building as a night club.

**On or before July 3, 2012 take the following corrective action(s):**

- Provide the required documentation related to fire treatment of interior finishes installed on the first floor.
- Repair or replace the damaged landing and stair railings at the exterior east wall stair well.

**On or before July 9, 2012 take the following corrective action(s):**

- Provide plans and calculations for the repair or replacement of the ANSUL hood and duct system on the kitchen.
- Start work on the first floor to complete the two hour fire separation wall.
- Complete removal of all trash and garbage from the second floor storage area.
- Complete installation of rated fire door at the second floor fire separation wall, the required 48-inch wide door at the south wall exit of the first floor.
- Submit plans for all non-permitted interior walls and electrical wiring on the first floor.
- Remove all exposed non-metallic cable wiring methods in the second floor storage area.
- Remove all non-approved electrical wiring passing through two hour fire separation wall.

- Install required fire damper for mechanical duct work passing through the two hour fire wall, or remove duct work passing through the fire wall.

**On or before July 16, 2012, take the following corrective action(s):**

- Obtain permits for all non-permitted interior walls and electrical wiring on the first floor, or, obtain demolition permit for the above mentioned items and start the removal of said items.
- Obtain permit for hood and duct repair or replacement and commence work on those items.
- Complete removal of any non-treated interior finishes installed on ceiling in bar area on the first floor.

**On or before August 16, 2012, the following actions must occur:**

- Have all permitted items, including but not limited to, the two hour fire separation wall, ANSUL hood and duct system, and interior non-bearing walls and electrical wiring inspections completed and signed as final by City Building and Fire Inspectors.
- Have all repairs to exterior stairwells completed.
- Have all required exterior exit doors installed.
- Have all inspections completed and signed as final by City Building and Fire Inspectors.

**All building and zoning requirements must be met before a permit will be issued.**

Any person having any record title or legal interest in the building may appeal from the Notice and Order or any action of the building official to the board of appeals, provided the appeal is made in writing as provided in this code and filed with the building official within 30 days from the date of service of the Notice and Order (by July 30, 2012). Failure to timely appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

Failure to respond to this order may result in further action, up to and including Administrative and/or Criminal Citations issued for each day the violations continue to exist until all work set forth above is completed. Pursuant to Tracy Municipal Code Section 1.28, this Notice and Order serves as notification that the Tracy Municipal Code provides the legal authority to issue Administrative Citations for TMC Code violations. The fines are \$100.00 for the first citation, \$200.00 for the second, \$500.00 for the third and subsequent citations for violations of the same code section within one year. These fines are cumulative and new citations may be issued for *each day the violation continues to exist*. A person who receives an Administrative Citation may contest the citation in the form of an appeal. Details regarding the appeal process are set forth in Chapter 1.28, attached.

Please be further advised that California law authorizes the Court to appoint a receiver to take possession of your property for the purposes of abating all nuisances. Pursuant to that receivership process, the receiver may have the ability to sell the property to recover all costs of abating the nuisance, including attorney fees, with the receiver's lien taking priority over any liens on the property that may be in effect at the time of the sale.

If you have any questions regarding this Notice and Order and the provisions contained herein, please contact me at (209) 831-6410, Monday through Thursday, 8:00 a.m. to 6:00 p.m. and every other Friday, 8:00 a.m. to 5:00 p.m.

City of Tracy  
Notice and Order - 714 North Central Ave  
June 28, 2012  
Page 9

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Decker", written in a cursive style.

JIM DECKER  
Code Enforcement Officer

Attachment: TMC Chapter 1.28, Administrative Citations

W:\Code Enforcement\Notice and Order\714 Central Ave NOTICE ORDER (draft) 06 28 12.doc

hearing officers, in which case the cost will be shared equally by the City and the person cited. (Ord. 1040 § 2 Exh. B (part), 2002)

**1.28.030 Continuing violations of building and zoning issues.**

If a violation pertains to building, plumbing, electrical, or other structural or zoning issues that do not create an immediate danger to health or safety, the City shall provide a reasonable period of time for a person responsible for a continuing violation to correct or otherwise remedy the violation before the imposition of an administrative citation or penalty under this chapter.

Before issuing an administrative citation, the enforcement officer shall give notice to the person responsible, in accordance with section 1.28.150. The notice shall be delivered personally or by certified mail. The notice shall State: the date and location of the violation; the section(s) of the Code violated; a description of the violation(s); the actions required to correct the violation(s); the time period allowed for correcting the violation(s); a Statement that an administrative citation may be issued each day after the time for correction has passed, if correction is not completed; the amount of the fine if an administrative citation is issued; and either a copy of this chapter or an explanation of the consequences of noncompliance and a description of the hearing procedure and appeal process.

The enforcement officer shall allow at least fifteen (15) days from the date the first notice is sent for compliance with the notice. If the nature of the condition is such that compliance is very complicated or expensive, and the condition is not an immediate threat to health or safety, the enforcement officer may extend the compliance period to thirty (30), sixty (60) or ninety (90) days, depending upon the circumstances.

If the enforcement officer determines that all violations have been corrected within the time specified in the notice, no further action shall be taken. (Ord. 1040 § 2 Exh. B (part), 2002)

**1.28.040 Administrative citation.**

(a) Authority. Whenever an enforcement officer charged with the enforcement of a provision of this Code determines that a violation of that provision has occurred, the enforcement officer has the authority to issue an administrative citation to the person responsible for the violation.

(b) Contents of citation. Each administrative citation shall contain the following information:

(1) The date of the violation, or date the violation was observed;

(2) The address or a definite description of the location where the violation occurred;

(3) The section of this Code violated and a description of the violation;

(4) The amount of the fine for the Code violation;

(5) A description of the fine payment process, including a description of the time within which, and the place to which, the fine shall be paid;

(6) An order prohibiting the continuation or repeated occurrence of the Code violation described in the citation;

(7) A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request-for-hearing form may be obtained to contest the citation; and

(8) The name and signature of the citing enforcement officer.

In the case of a continuing violation involving building, plumbing, electrical, or other similar structural or zoning issues identified under section 1.28.020, the administrative citation shall also have attached a copy of the notice that had been sent to the responsible party.

(c) Delivery of citation. The administrative citation shall either be delivered personally or sent by first class mail to the person responsible for the violation. (Ord. 1040 § 2 Exh. B (part), 2002)

**1.28.050 Amount of fines.**

(a) Maximum amount of fine. The maximum amount of the fine for each Code violation imposed under this chapter shall be established in a schedule of fines adopted by resolution of the City Council. The schedule of fines shall specify:

(1) Any increased fines for repeat violations of the same Code provision by the same person within a twelve (12) month period; and

(2) Any late payment charges imposed for the payment of a fine after its due date.

(b) Additional amounts. Administrative costs, interest, late payment charges, costs of compliance reinspections, and collection costs are in addition to the fines.

(c) Factors in establishing fine.

(1) Enforcement officer. When preparing the administrative citation, the enforcement officer shall set the fine at the maximum fine established by the City Council.

(2) Hearing officer. Upon request before or at the hearing held under section 1.28.090, the hearing officer may in his or her sole discretion reduce the amount of the fine based on the following factors: (A) the duration of the violation; (B) the frequency, recurrence and number of violations, related or unrelated, by the same violator; (C)



1.28.050

the seriousness of the violation; (D) the good faith efforts of the violator to come into compliance; (E) the impact of the violation on the community; and (F) such other factors as justice requires. (Ord. 1040 § 2 Exh. B (part), 2002)

**1.28.060 Payment of the fine.**

(a) Due date. The fine shall be paid to the City within thirty (30) days from the date of the administrative citation. The City may suspend the imposition of fines for any period of time during which the violator has filed for necessary permits, and such permits are required to achieve compliance, and the permit applications are actively pending before the appropriate governmental agency.

(b) Refund. The City shall refund a fine paid if the hearing officer determines, after a hearing held under section 1.28.090, that the person charged in the citation was not responsible for the violation or that there was no violation as charged.

(c) Further violations not excused. Payment of a fine under this chapter shall not excuse or discharge any continuation or repeated occurrence of the Code violation. (Ord. 1040 § 2 Exh. B (part), 2002)

**1.28.070 Hearing request.**

A person who receives an administrative citation may contest the citation on the basis that there was no violation of the Code or that he or she is not the responsible party. To contest the citation, the person shall submit a request for hearing form to the City within thirty (30) days from the date of the administrative citation. The request form may be obtained from the department specified on the citation. The completed request must be submitted together with either an advance deposit of the fine or notice that a request for an advance deposit hardship waiver has been filed under section 1.28.080. (Ord. 1040 § 2 Exh. B (part), 2002)

**1.28.080 Advance deposit hardship waiver.**

(a) A person who intends to contest an administrative citation under section 1.28.070 and who is financially unable to make the required advance deposit of the fine may file a request for an advance deposit hardship waiver under this section.

(b) An advance deposit hardship waiver shall be filed with the finance department on a form provided by that department. The application submitted shall include an affidavit, together with any supporting documents or materials, demonstrating the person's actual financial inability to deposit with the City the full amount of the fine. The waiver form shall be filed within ten (10) days of the date of the administrative citation.

(c) The requirement of depositing the fine shall be stayed unless or until the Finance Director makes a determination not to issue the advance deposit hardship waiver.

(d) The Finance Director may waive the requirement of an advance deposit under section 1.28.070 and issue the waiver only if the evidence submitted demonstrates to the satisfaction of the director the person's actual financial inability to deposit with the City the full amount of the fine in advance of the hearing.

(e) The director shall issue a written determination listing the reasons for his or her determination to issue or not issue the advance deposit hardship waiver. The written determination of the director is final. The written determination shall be served upon the person who applied for the waiver.

(f) If the director determines not to issue a waiver, the person cited shall deposit the fine with the City within ten (10) days of the date of that decision or thirty (30) days from the date of the citation, whichever is later. (Ord. 1040 § 2 Exh. B (part), 2002)

**1.28.090 Hearing procedure.**

(a) Setting the hearing. A hearing before the hearing officer shall be set for a date that is not less than fifteen (15) days and not more than sixty (60) days from the date that the request for hearing is filed. The person requesting the hearing shall be notified of the time and place set for the hearing as soon as it is set, and at least ten (10) days before the hearing. If the enforcement officer submits a written report concerning the citation to the hearing officer for consideration at the hearing, then a copy of the report shall be served on the person requesting the hearing at least five (5) days before the hearing.

No hearing shall be held unless the fine has been deposited in advance, under section 1.28.070 or an advance deposit hardship waiver has been issued under section 1.28.080.

(b) Failure to appear. The failure of the person requesting the hearing to appear at the hearing shall constitute a forfeiture of the fine and a failure to exhaust his or her administrative remedies.

(c) At the hearing. The administrative citation and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents. At the hearing, the party contesting the citation shall be given the opportunity to testify and to present evidence concerning the citation.

(d) Continuances. The hearing officer may continue the hearing and may request additional information from the enforcement officer or the person receiving the citation

before issuing the decision. (Ord. 1040 § 2 Exh. B (part), 2002)

**1.28.110 Hearing officer's decision.**

(a) Decision. After considering the testimony and evidence presented at the hearing, the hearing officer shall issue a written decision to uphold or cancel the administrative citation. The hearing officer shall state the reasons for the decision and shall send a copy of the decision to the person requesting the hearing and to the enforcement officer. The decision of the hearing officer is final, and may not be appealed under chapter 1.12.

(b) Status of fine. If the citation is upheld, then the fine amount on deposit with the City shall be retained by the City. If the fine has not been deposited because there was an advance deposit hardship waiver, the hearing officer shall set forth in the decision a payment schedule for the fine.

If the person cited requests a reduction in the fine under section 1.28.050(c), the hearing officer's decision shall respond to that request. If the fine has been reduced, the City shall refund the difference between the amount on deposit with the City and the amount of the reduced fine.

If the citation is canceled, the City shall promptly refund the amount of any fine deposited, together with interest at the average rate earned on the City's portfolio for the period of time that the fine was held by the City.

(c) No employment evaluation based on citations upheld. If the hearing officer is an employee of the City, the employment, performance evaluation, compensation and benefits of the hearing officer shall not be directly or indirectly conditioned upon or affected by the amount of administrative citation fines upheld by the hearing officer. (Ord. 1040 § 2 Exh. B (part), 2002)

**1.28.120 Late payment charges.**

A person who fails to pay to the City any fine imposed under this chapter on or before the due date is liable for payment of any applicable late payment charges set forth in the schedule of fines. (Ord. 1040 § 2 Exh. B (part), 2002)

**1.28.130 Recovery of administrative citation fines and costs.**

(a) A person who fails to pay any fine or other charge owed to the City under this chapter is liable in any action brought by the City for all costs incurred in securing payment of the delinquent amount, including, but not limited to, administrative costs and attorneys' fees. Such collection costs are in addition to any fines, interest, and late charges.

(b) In addition to the administrative citation fine, the City may collect its administrative costs, interest, late payment charges, costs of compliance reinspections, and collection costs.

(c) The City may collect any past due administrative citation fine and other costs and charges by any available legal means. (Ord. 1040 § 2 Exh. B (part), 2002)

**1.28.140 Right to judicial review.**

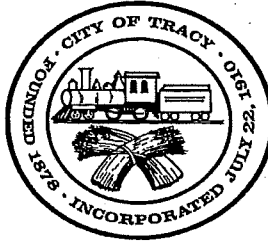
Notwithstanding section 1.20.010 of this Code, a person aggrieved by an administrative decision by a hearing officer under this chapter may obtain review of the administrative decision by filing a petition for review with the Superior Court of California, San Joaquin County, Tracy Branch, within twenty (20) days after service of the final decision, in accordance with Government Code section 53069.4. (Ord. 1040 § 2 Exh. B (part), 2002)

**1.28.150 Notices.**

(a) Method of service. The administrative citation and all notices required to be given by this chapter shall be served on the responsible party either by personal service, by first class mail, or by certified mail, return receipt requested. (See section 1.08.100.)

(b) Real property. When real property is involved in the violation, the original notice, the administrative citation and all notices required to be given by this chapter shall be served on the responsible party and, if different, to the property owner at the address as shown on the last equalized county assessment roll. If personal service or service by mail on the property owner is unsuccessful, a copy of each notice and the citation shall be conspicuously posted at the property which is the subject of the violation. The City may, in its discretion, also serve notice on a tenant, a mortgagor or any other person having an interest in the property.

(c) Failure to receive notice. The failure of a person to receive a required notice shall not affect the validity of any proceedings taken under this chapter. (Ord. 1040 § 2 Exh. B (part), 2002)



CITY OF TRACY  
CODE ENFORCEMENT DIVISION  
333 Civic Center Plaza  
Tracy, CA 95376  
(209) 831-6410

## NOTICE AND ORDER

Date: February 3, 2009  
Assessor Parcel Number: 235-162-09  
Property Address: 714 North Central Avenue, Tracy CA 95376  
Property Owner: BBS Adventures, LLC  
Mailing Address: 1128 Wall St., Tracy, CA 95376

**BRANDON PERRY, as Managing Member of  
BBS ADVENTURES, LLC,  
OWNER OF THE REFERENCED PROPERTY,  
YOU ARE HEREBY SERVED THIS NOTICE AND ORDER**

The City of Tracy (City) has received and confirmed information regarding the commercial property located at 714 North Central Avenue, Tracy, specifically regarding violations of the 2007 California Building Code (CBC), 2007 California Electrical Code (CEC), 2007 California Plumbing Code (CPC), and Uniform Code for the Abatement of Dangerous Buildings (UCADB), each of which were adopted by the City pursuant to Title 9 of the Tracy Municipal Code, California Health & Safety Code Section 17920.3 and Section 5.20.050 of the Tracy Municipal Code.

City staff inspected the above-referenced property on December 4, 2008, and made the following observations:

*Alterations to the building including new interior walls and a bar area at the north side were in progress on the second floor. I took photographs of the work in progress. One of the managing members of the LLC, Brandon Perry, was contacted at the site and issued a violation notice and stop work order. A follow up inspection was performed on December 30, 2008, per the owner's request, in anticipation of the planned New Years Eve party scheduled to occur later that evening. During this inspection, I observed cracks in the unreinforced walls of the building. Two of these cracks, one at the southeast corner and another at the middle of the north wall, begin at the roof line and extend to the foundation. Other cracks were also observed in the north, east and south walls. Although these cracks did not extend from roof to foundation, they were significant in length (approximately four feet). A structural wood member at the east wall on the second floor with attachments to the masonry was missing. Further inspection of the area under the building revealed two small basement areas. A conduit was separated from the connector at the ceiling light in the basement below the dining area. A sub-panel located in the northwest corner of this basement had no dead front, was missing knockout seals, and did not display a current panel schedule. The receptacle outlet located under this panel lacks the required straps for the conduit and the outlet box was not properly supported. Other flexible metal conduits(FMC) and the*

*electrical metallic tubing (EMT) attached to this panel also lack the required straps. The three inch (3") ABS waste line above the sub-panel had reverse slope and the required supports were missing. A three-quarter inch water line was lacked the required supports. A pair of posts supporting a floor load above was missing the beam, blocking at the ceiling/floor line in the basement. No footing or post base for these posts was visible. Evidence of water contacting the posts was discovered. A four inch roof drain line was installed at the south side of the exterior using non-approved pipe and fittings and the drain line lacked the proper supports. Wood trim at the second floor soffit, south west corner is pulled loose.*

*A permit for **electrical work only** in the bar area of the second floor was issued and approved by Building Inspection staff as complete on December 31, 2008.*

The following table lists current violations present at the referenced property that must be corrected:

Code Section	Violation
CBC § 115.1	Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the building official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.
CBC § 105.1	Permits Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.
Health & Safety Code § 17920.3 (a) 13, (b) 4, 7, (c)	Any building or portion thereof including any dwelling unit, guestroom, or suite of rooms or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building. ... (a) 13. General dilapidation or improper maintenance.... (b)... 4. Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration. ... 7. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient size to carry imposed loads with safety. ... (c) Any nuisance. Any building or portion thereof which is determined to be an unsafe building due to inadequate maintenance, in accordance with the latest edition of the Uniform Building Code.

CBC § 110.1	<b>Use and Occupancy.</b> No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefore as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.
UCADB § 302, (13)	<b>Dangerous Buildings.</b> Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings. ....
CBC § 2304.11.2..7	<b>Posts or Columns.</b> Posts or columns supporting permanent structures And supported by a concrete or masonry slab or footing that is in direct contact with the earth shall be of naturally durable or preservative-treated wood.
CEC § 358.42	<b>Couplings and Connectors.</b> Couplings and connectors used with EMT shall be made up tight. Where buried in masonry or concrete, they shall be concretetight... Where installed in wet locations, they shall comply with 314.15 (A).
CEC §110.3 (B)	<b>Installation and Use.</b> Listed or labeled equipment shall be installed and used in accordance with any instructions included with the listing or labeling.
CEC § 110.12 (A)	<b>Unused Openings.</b> Unused cable or raceway openings in boxes, raceways, auxiliary gutters, cabinets, cutout boxes, meter socket enclosures, equipment cases, or housings shall be effectively closed to afford protection substantially equivalent to the wall of the equipment. Where metallic plugs or plates are used with non metallic enclosures, they shall be recessed at least 6 mm (1/4 in.) from the outer surface of the enclosure.
CEC § 408.4	<b>Circuit Directory or Circuit Identification.</b> Every circuit and circuit modification shall be legibly identified as to its clear, evident, and specific use. The identification shall include sufficient detail to allow each circuit to be distinguished from all others. The identification shall be included in a circuit directory that is located on the face or inside of the panel door in the case of a panel board and located at each switch on a switchboard.
CEC § 358.30 (A)	<b>Securely Fastened.</b> EMT shall be securely fastened in a place at least every 3 m (10 ft). In addition, each EMT run between termination points shall be securely fastened within 900 mm (3 ft) of each outlet box, junction box , device box , cabinet, conduit body, or other body termination.
CEC § 348.30 (A)	<b>Securely Fastened.</b> FMC shall be securely fastened in place by an approved means within 300 mm (12 in.) of each box, cabinet, conduit body, or other conduit termination and shall be supported and secured at intervals not to exceed 1.4 m (4-½ ft).

CEC § 314.23 (A)	<b>Surface Mounting.</b> An enclosure mounted on a building or other surface shall be rigidly and securely fastened in place. If the surface does not provide rigid and secure support, additional support in accordance with other provisions of this section shall be provided.
CPC § 708.0	<b>Grade of Horizontal Drainage Piping.</b> Horizontal drainage piping shall be run in practical alignment and a uniform slope of not less than one-fourth (1/4) inch per foot (20.9 mm/m) or two (2) percent toward the point of disposal provided that, where it is impractical due to the depth of the street sewer or to the structural features or to the arrangement of any building or structure to obtain a slope of (1/4) of an inch per foot (20.9 mm/m) or two percent, any such pipe or piping four (4) inches (100 mm) or larger in diameter may have a slope of not less than one-eighth (1/8) of an inch per foot (10.5 mm/m) or one (1) percent, when first approved by the Authority Having Jurisdiction.
CPC § 314.0	<b>Hangers and supports. Table 3-2. Schedule 40 PVC and ABS DWV.</b> Horizontal- All sizes, 4 feet (1,219 mm). Allow for expansion every 30 feet (9,144 mm). Vertical-Base and each floor. Provide mid-story guides. Provide for expansion every 30 feet (9,144 mm).
CPC § 314.0	<b>Hangers and Supports. Table 3-2. Copper Tube and Pipe.</b> Horizontal-1-1/2 inches (40 mm) and smaller, 6 feet (1,829 mm), 2 inches (50 mm) and larger, 10 feet (3,048 mm). Vertical-Each floor, not to exceed 10 feet (3,048 mm).
CPC § 310.4	<b>Installation Practices.</b> Plumbing systems shall be installed in a manner conforming to this code, applicable standards, and the manufacturers installation instructions. In instances where the code applicable standards, or the manufacturers instructions conflict, the more stringent provisions shall prevail.

Copies of all Codes cited above are available for review in the City Clerk's Office.

**Corrections Required:**

**On or before February 7, 2009 take the following corrective action(s):**

**EITHER: Demolish or Vacate and Secure the referenced property, OR:**

- Obtain the required City of Tracy Building, Electrical, Plumbing permits and;
- Provide treated wood posts and post bases at the two locations in the basement.
- Repair the wood trim at the south west corner of the soffit, second floor roof.
- Replace the missing dead front and knockout seals on the sub-panel in the basement.
- Replace the missing straps on the EMT, FMC in the basement.
- Provide an up to date typewritten panel schedule for the sub-panel in the basement.
- Secure the receptacle box below the sub panel in the basement.
- Re-install the conduit pulled loose at the ceiling light box in the basement.
- Provide the required slope, requires supports for the three inch waste line in the basement.
- Replace the missing straps for the three-quarter inch water line in the basement.

- Replace the non listed four-inch roof drain line at the south side of the building with approved DWV pipe and fittings, provide pipe supports as required.

**On or before March 23, 2009, take the following corrective action(s) (if the Demolish or Vacate and Secure option is not chosen):**

- Provide a structural analysis of the building that addresses the seismic and lateral force stability issues, in addition to repairs needed for the damaged unreinforced brick masonry walls, from a licensed architect or structural engineer.

**On or before April 16, 2009, take the following corrective action(s) (if the Demolish or Vacate and Secure option is not chosen):**

- Provide plans; obtain the required permit(s) to repair the deteriorated brick walls, replace the missing structural member at the east wall on the second floor...
- Provide plans, obtain the required permit(s) for construction of the new interior walls on the second floor, or

**If you chose to demolish the building, the following requirements must be met prior to demolition:**

- Obtain the required Demolition Permit as required by the San Joaquin County Air Pollution Control District, and
- Obtain a City of Tracy Demolition Permit for the building.

**On or before May 16, 2009, the following actions must occur:**

- All work must be completed as described in the City of Tracy Building and/or Demolition Permits and all work must receive a final building inspection approval and the project deemed complete by the City of Tracy Building Inspector.

**All building and zoning requirements must be met before a permit will be issued.**

Any person having any record title or legal interest in the building may appeal from the Notice and Order or any action of the building official to the board of appeals, provided the appeal is made in writing as provided in this code and filed with the building official within 30 days from the date of service of the Notice and Order (by March 6, 2009). Failure to timely appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

Failure to respond to this order may result in further action, up to and including Administrative and/or Criminal Citations issued for each day the violations continue to exist until all work set forth above is completed. Pursuant to Tracy Municipal Code Section 1.28, this Notice and Order serves as notification that the Tracy Municipal Code provides the legal authority to issue Administrative Citations for TMC Code violations. The fines are \$100.00 for the first citation, \$200.00 for the second, \$500.00 for the third and subsequent citations for violations of the same code section within one year. These fines are cumulative and new citations may be issued for *each day the violation continues to exist*. A person who receives an Administrative Citation may contest the citation in the form of an appeal. Details regarding the appeal process are set forth in Chapter 1.28, attached.

City of Tracy  
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Please be further advised that California law authorizes the Court to appoint a receiver to take possession of your property for the purposes of abating all nuisances. Pursuant to that receivership process, the receiver may have the ability to sell the property to recover all costs of abating the nuisance, including attorney fees, with the receiver's lien taking priority over any liens on the property that may be in effect at the time of the sale.

If you have any questions regarding this Notice and Order and the provisions contained herein, please contact me at (209) 831-6408, Monday through Thursday, 8:00 a.m. to 6:00 p.m. and every other Friday, 8:00 a.m. to 5:00 p.m.

Sincerely,



JIM DECKER  
Code Enforcement Officer/Building Inspector II

JD:AC

Attachment: TMC Chapter 1.28, Administrative Citations

cc: Bradley S. Albom, Registered Agent and Managing Member

w:des/code enforcement/2008 cases/714 N Central Avenue





City of Tracy  
Development & Engineering Services Department  
Code Enforcement Division  
333 Civic Center Plaza  
Tracy, CA 95376

## **ORDER TO VACATE**

**IT IS UNLAWFUL TO OCCUPY THIS BUILDING AFTER MARCH 24, 2016  
DO NOT ENTER THIS BUILDING AFTER MARCH 24, 2016**

Date: March 24, 2016  
Case Number: 16CD-0188  
Assessor Parcel Number: 235-162-09  
Business Name: The Great Plate  
Property Address: 714 North Central Avenue, Tracy, California 95376

Business Owner: Jacobo Gallegos  
Mailing Address: 261 Butte Way, Tracy, CA 95376

**JACOBO GALLEGOS,  
AS A BUSINESS OWNER OPERATING FROM THE  
ABOVE REFERENCED BUILDING,  
YOU ARE HEREBY SERVED THIS ORDER TO VACATE**

Pursuant to Section 404.2 of the Uniform Code for the Abatement of Dangerous Buildings, "no person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish, or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal has been completed and a Certificate of Occupancy has been issued pursuant to the provisions of the Building Code".

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An inspection of the building was performed on March 21, 2016, per a report of deflection on the first floor of the building, at the north side of the bar area. A noticeable downward slope in the floor was observed at the north end of the bar area with approximately a six inch drop from the west edge of the liquor cabinet to the underside of the glass dishwasher. More deflection of the floor was noted at the column located east of the northwest entrance and extending to the northeast corner of the bar area by the kitchen entry. The slope was from the west side entry towards the east side at the back of the bar. The tenant stated he noticed the floor deflection in the bar area about four to six months ago. A check of a small basement located at the southwest corner of the bar did not reveal the presence of moisture or standing water. No leaking pipes were observed in this area. The tenant stated that a portion the floor at

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714 Central Avenue  
Case Number: 16CD-0188  
March 23, 2016  
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the northeast corner by the kitchen door was repaired due to moisture and mold approximately 16 months ago but no inspection of the damage or the repair work was performed by the City of Tracy Building Inspection Division. At the west side of the building, damage was observed along the brick and window ledge. The window ledge at both sides of the southwest entry was buckled and the brick was pushed away from the building. Due to the areas of deflection without apparent cause, the City of Tracy Supervising Building Inspector advised the tenant that a structural engineer's opinion was required in order to evaluate the entire building and address these newfound deficiencies, as well as the structural deficiencies outlined in the Notice and Order dated February 3, 2009 (attached). As a result of the structural deficiencies observed during the inspection on March 21, 2016, the City deems the building, 714 Central Avenue, unsafe to occupy and hereby orders the tenants to vacate per the City of Tracy Chief Building Official. The structure may only be occupied for the purposes of performing work outlined in Notice and Orders dated March 24, 2016, June 28, 2012 and February 3, 2009.



ANA CONTRERAS  
Community Preservation Manager

3/24/16

DATE

cc: Bradley S. Albom, Registered Agent and Managing Member

Attachments: Notice and Orders dated February 3, 2009, June 28, 2012, and March 21, 2016



City of Tracy  
Development Services Department  
Code Enforcement Division  
333 Civic Center Plaza  
Tracy, CA 95376  
(209) 831-6410

## **NOTICE AND ORDER**

Date: March 24, 2016  
Case Number: 16CD-0188  
Assessor Parcel Number: 235-162-09  
Property Address: 714 North Central Avenue, Tracy, CA 95376

Business Owner: Jacobo Gallegos  
Mailing Address: 261 Butte Way, Tracy CA 95376

**JACOBO GALLEGOS,  
AS OWNER OF THE BUSINESS OPERATING IN  
THE ABOVE REFERENCED BUILDING,  
YOU ARE HEREBY SERVED THIS NOTICE AND ORDER**

The City of Tracy (City) has received and confirmed reports of violations on residential property located at 714 North Central Avenue, Tracy, hereinafter referred to as "referenced property", specifically violations relative to the 2013 California Building Code (CBC), 2013 California Residential Code (CRC), the 1997 Uniform Housing Code (UHC), and the Uniform Code for the Abatement of Dangerous Buildings (UCADB), and Section 10.08.3460 (a) of the Tracy Municipal Code.

Code Enforcement staff inspected the referenced property on March 21, 2016, per a complaint of deflection in the first floor at the north side of the bar area at 11:15 hours with the tenant present and verbal consent to inspect given. A noticeable downward slope in the floor was observed at the north end of the bar area with approximately a six inch drop from the west edge of the liquor cabinet to the underside of the glass washing machine. More deflection of the floor was noted at the column located east of the north west entrance and extending to the north east corner of the bar area by the kitchen entry. The slope was from the west side entry towards the east side at the back of the bar. The tenant stated that he noticed the floor deflection in the bar area about four to six months ago. A check of a small basement located at the southwest corner of the bar revealed no presence of moisture or standing water. No leaking pipes were observed in this area. The tenant stated that a portion the floor at the northeast corner by the kitchen door was repaired due to moisture and mold approximately 16 months ago; however, no inspection of the damage or the repair work was performed by the City as the work was done without the benefit of City Building Permits. At the west side of the building, damage to the brick and window ledge was observed. The window ledges, at both sides of the southwest entry, were buckled and the brick was being pushed away from the building. The tenant was advised that a structural engineer would be required to evaluate the structural integrity of the entire building

for a determination of the cause of this deflection. Previous structural issues and repairs were addressed in the City of Tracy Notice and Order dated February 9, 2009 (attached), which required a structural analysis of the building that addressed the seismic and lateral force stability issues, in addition to repairs needed for the damaged unreinforced brick masonry walls. This order was not complied with. Said report requires signature by the engineer of record verifying the recommended repairs and mitigation measures, if any, met their design consideration.

Based on the most recent inspection and discoveries, the building is hereby considered substandard and ordered vacated.

### VIOLATION DEFINITIONS

The following table lists current violations present at the referenced property that require correction prior to occupancy:

CODE SECTION	VIOLATION
CBC §105.1	Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.
CBC §111.1	Use and Occupancy. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefore as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.
CFC §110.1.1	Unsafe conditions. Structures or existing equipment that are or hereafter become unsafe or deficient because of inadequate means of egress or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. A vacant structure which is not secured against unauthorized entry as required by Section 311 shall be deemed unsafe.

<p>UCADB §302,          (1), (2), (5), (8),          (9), (13), (16)</p>	<p>Dangerous Buildings. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic. ...</p> <p>2. Whenever the walking surface of any aisle, passageway, stairway of other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic....</p> <p>5. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged or to collapse and thereby injure persons or damage property....</p> <p>8. Whenever the building or structure or any portion thereof, because of (i) dilapidation, deterioration or decay (ii) faulty construction (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.</p> <p>9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used...</p> <p>13. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings. ...</p> <p>16. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire resistant construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Marshall to be a fire hazard....</p>
<p>H&amp;S 17920.3          (b)(4), (d), (f),          (j), (l)</p>	<p>(b) Structural hazards shall include, but not be limited to, the following: ...</p> <p>(4) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration ...</p> <p>(d) All wiring, except that which conformed with all applicable laws in effect at the time of installation if it is currently in good and safe condition and working properly. ...</p> <p>(f) All mechanical equipment, including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good and safe condition, or which may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly. ...</p> <p>(j) Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris. Garbage, offal, rodent harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards....</p> <p>(l) All buildings or portions thereof not provided with adequate exit facilities as required by this code, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and which have</p>

	been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or to any change in occupancy. When an unsafe condition exists through lack of, or improper location of, exits, additional exits may be required to be installed.
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**Copies of all Codes cited are available for review in the City Clerk's Office.**

***CORRECTIONS AND DEADLINE DATES***

**ON MARCH 24, 2016**

**Vacate the building by 5:00 p.m.** The building shall remain vacant and secured until the City of Tracy has received, reviewed, and accepted the report to be submitted by a licensed structural engineer and signed by the engineer of record and all required plan check approvals and building permits have been issued to correct the deficiencies.

**ON OR BEFORE APRIL 4, 2016**

CHOOSE ONE OF THE FOLLOWING ACTIONS:

Submit to the City of Tracy Code Enforcement Division the required structural engineer's report, signed by the engineer of record. Said report must provide an analysis of the *entire building*, including the structural deficiencies outlined in the Notice and Order dated February 3, 2009.

OR

Submit application for a City of Tracy Demolition Permit. Begin asbestos or other haz-mat remediation and apply for a demolition release from the San Joaquin Air Pollution Control District.

**ON OR BEFORE APRIL 15, 2016**

Obtain all required City of Tracy Building Permits for the repair of the structure OR obtain Demolition Permit and begin demolition of the structure.

**ON OR BEFORE MAY 10, 2016**

All repairs must be completed or the building demolished. Building permits must be signed off by this date deeming the repairs or demolition complete.

**All building and zoning requirements must be met before a permit will be issued.**


Any person having any record title or legal interest in the building may appeal from the Notice and Order or any action of the building official to the board of appeals, provided the appeal is made in writing as provided in this code and filed with the building official within 30 days from the date of service of the Notice and Order (by **May 2, 2016**). Failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

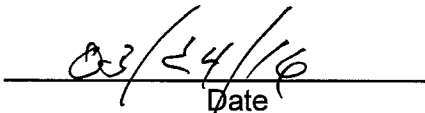
Notice and Order  
Jacobco Gallegos - 714 N Central Avenue  
March 24, 2016  
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Please be further advised that California law authorizes the Court to appoint a receiver to take possession of your property for the purposes of abating all nuisances. Pursuant to that receivership process, the receiver may have the ability to sell the property to recover all costs of abating the nuisance, including attorney fees, with the receiver's lien taking priority over any liens on the property that may be in effect at the time of the sale.

Pursuant to Tracy Municipal Code Section 10.08.4905, this property continues to be in violation of the Tracy Municipal Code, therefore, the violations on record will be filed with the San Joaquin County Recorder's Office. If you, as the owner, correct said violations or the property otherwise becomes conforming after the notice is recorded, and the owner has notified the City in writing and consented to an inspection to confirm corrections, the Director of Development and Engineering Services shall record a release or cancellation of the notice of violation.

Information regarding this Notice and Order and the provisions contained herein is available in the Development Services Department, City Hall, (209) 831-6410.

  
\_\_\_\_\_  
JIM DECKER  
Code Enforcement Officer/Building Inspector II

  
\_\_\_\_\_  
Date

Attachments: Notice and Orders dated February 3, 2009, June 28, 2012, and March 21, 2016

cc: Bradley S. Albom, Registered Agent and Managing Member

JD:AC



City of Tracy  
Development & Engineering Services Department  
Code Enforcement Division  
333 Civic Center Plaza  
Tracy, CA 95376

## **ORDER TO VACATE**

**IT IS UNLAWFUL TO OCCUPY THIS BUILDING AFTER MARCH 24, 2016  
DO NOT ENTER THIS BUILDING AFTER MARCH 24, 2016**

Date: March 24, 2016  
Case Number: 16CD-0188  
Assessor Parcel Number: 235-162-09  
Business Name: The Great Plate  
Property Address: 714 North Central Avenue, Tracy, California 95376

Business Owner: Antonio Andrade Rodriguez  
Mailing Address: 1804 San Antonio Way, Oakland, CA 94606

**ANTONIO ANDRADE RODRIGUEZ,  
AS A BUSINESS OWNER OPERATING FROM THE  
ABOVE REFERENCED PROPERTY,  
YOU ARE HEREBY SERVED THIS ORDER TO VACATE**

Pursuant to Section 404.2 of the Uniform Code for the Abatement of Dangerous Buildings, "no person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish, or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal has been completed and a Certificate of Occupancy has been issued pursuant to the provisions of the Building Code".

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An inspection of the building was performed on March 21, 2016, per a report of deflection on the first floor of the building, at the north side of the bar area. A noticeable downward slope in the floor was observed at the north end of the bar area with approximately a six (6) inch drop from the west edge of the liquor cabinet to the underside of the glass dishwasher. More deflection of the floor was noted at the column located east of the northwest entrance and extending to the northeast corner of the bar area by the kitchen entry. The slope was from the west side entry towards the east side at the back of the bar. The tenant stated he noticed the floor deflection in the bar area about four to six months ago. A check of a small basement located at the southwest corner of the bar did not reveal the presence of moisture or standing water. No leaking pipes were observed in this area. The tenant stated that a portion the floor at the northeast corner by the kitchen door was repaired due to moisture and mold approximately 16



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Case Number: 16CD-0188  
March 23, 2016  
Page 2

months ago but no inspection of the damage or the repair work was performed by the City of Tracy Building Inspection Division. At the west side of the building, damage was observed along the brick and window ledge. The window ledge at both sides of the southwest entry was buckled and the brick was pushed away from the building. Due to the areas of deflection without apparent cause, the City of Tracy Supervising Building Inspector advised the tenant that a structural engineer's opinion was required in order to evaluate the entire building and address these newfound deficiencies, as well as the structural deficiencies outlined in the Notice and Order dated February 3, 2009 (attached). As a result of the structural deficiencies observed during the inspection on March 21, 2016, the City deems the building, 714 Central Avenue, unsafe to occupy and hereby orders the tenants to vacate per the City of Tracy Chief Building Official. The structure may only be occupied for the purposes of performing work outlined in Notice and Orders dated March 24, 2016, June 28, 2012 and February 3, 2009.



\_\_\_\_\_  
ANA CONTRERAS  
Community Preservation Manager



\_\_\_\_\_  
DATE

cc: Bradley S. Albom, Registered Agent and Managing Member

Attachments: Notice and Orders dated February 3, 2009, June 28, 2012, and March 21, 2016



City of Tracy  
Development Services Department  
Code Enforcement Division  
333 Civic Center Plaza  
Tracy, CA 95376  
(209) 831-6410

## **NOTICE AND ORDER**

Date: March 24, 2016  
Case Number: 16CD-0188  
Assessor Parcel Number: 235-162-09  
Property Address: 714 North Central Avenue, Tracy, CA 95376

Business Owner: Antonio Andrade Rodrigues  
Mailing Address: 1804 San Antonio Way, Oakland, CA 94606

**ANTONIO ANDRADE RODRIGUEZ,  
AS OWNER OF THE BUSINESS OPERATING IN  
THE ABOVE REFERENCED BUILDING,  
YOU ARE HEREBY SERVED THIS NOTICE AND ORDER**

The City of Tracy (City) has received and confirmed reports of violations on residential property located at 714 North Central Avenue, Tracy, hereinafter referred to as "referenced property", specifically violations relative to the 2013 California Building Code (CBC), 2013 California Residential Code (CRC), the 1997 Uniform Housing Code (UHC), and the Uniform Code for the Abatement of Dangerous Buildings (UCADB), and Section 10.08.3460 (a) of the Tracy Municipal Code.

Code Enforcement staff inspected the referenced property on March 21, 2016, per a complaint of deflection in the first floor at the north side of the bar area at 11:15 hours with the tenant present and verbal consent to inspect given. A noticeable downward slope in the floor was observed at the north end of the bar area with approximately a six inch drop from the west edge of the liquor cabinet to the underside of the glass washing machine. More deflection of the floor was noted at the column located east of the north west entrance and extending to the north east corner of the bar area by the kitchen entry. The slope was from the west side entry towards the east side at the back of the bar. The tenant stated that he noticed the floor deflection in the bar area about four to six months ago. A check of a small basement located at the southwest corner of the bar revealed no presence of moisture or standing water. No leaking pipes were observed in this area. The tenant stated that a portion the floor at the northeast corner by the kitchen door was repaired due to moisture and mold approximately 16 months ago; however, no inspection of the damage or the repair work was performed by the City as the work was done without the benefit of City Building Permits. At the west side of the building, damage to the brick and window ledge was observed. The window ledges, at both sides of the southwest entry, were buckled and the brick was being pushed away from the building. The tenant was advised that a structural engineer would be required to evaluate the structural integrity of the entire building

for a determination of the cause of this deflection. Previous structural issues and repairs were addressed in the City of Tracy Notice and Order dated February 9, 2009 (attached), which required a structural analysis of the building that addressed the seismic-and lateral force stability issues, in addition to repairs needed for the damaged unreinforced brick masonry walls. This order was not complied with. Said report requires signature by the engineer of record verifying the recommended repairs and mitigation measures, if any, met their design consideration.

Based on the most recent inspection and discoveries, the building is hereby considered substandard and ordered vacated.

### VIOLATION DEFINITIONS

The following table lists current violations present at the referenced property that require correction prior to occupancy:

CODE SECTION	VIOLATION
CBC §105.1	Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.
CBC §111.1	Use and Occupancy. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefore as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.
CFC §110.1.1	Unsafe conditions. Structures or existing equipment that are or hereafter become unsafe or deficient because of inadequate means of egress or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. A vacant structure which is not secured against unauthorized entry as required by Section 311 shall be deemed unsafe.

<p>UCADB §302,          (1), (2), (5), (8),          (9), (13), (16)</p>	<p>Dangerous Buildings. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic. ...</p> <p>2. Whenever the walking surface of any aisle, passageway, stairway of other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic....</p> <p>5. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged or to collapse and thereby injure persons or damage property....</p> <p>8. Whenever the building or structure or any portion thereof, because of (i) dilapidation, deterioration or decay (ii) faulty construction (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.</p> <p>9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used...</p> <p>13. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings. ...</p> <p>16. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire resistant construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Marshall to be a fire hazard....</p>
<p>H&amp;S 17920.3          (b)(4), (d), (f),          (j), (l)</p>	<p>(b) Structural hazards shall include, but not be limited to, the following: ...</p> <p>(4) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration ...</p> <p>(d) All wiring, except that which conformed with all applicable laws in effect at the time of installation if it is currently in good and safe condition and working properly. ...</p> <p>(f) All mechanical equipment, including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good and safe condition, or which may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly. ...</p> <p>(j) Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris. Garbage, offal, rodent harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards....</p> <p>(l) All buildings or portions thereof not provided with adequate exit facilities as required by this code, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and which have</p>

	been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or to any change in occupancy. When an unsafe condition exists through lack of, or improper location of, exits, additional exits may be required to be installed.
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**Copies of all Codes cited are available for review in the City Clerk's Office.**

***CORRECTIONS AND DEADLINE DATES***

**ON MARCH 24, 2016**

**Vacate the building by 5:00 p.m.** The building shall remain vacant and secured until the City of Tracy has received, reviewed, and accepted the report to be submitted by a licensed structural engineer and signed by the engineer of record and all required plan check approvals and building permits have been issued to correct the deficiencies.

**ON OR BEFORE APRIL 4, 2016**

CHOOSE ONE OF THE FOLLOWING ACTIONS:

Submit to the City of Tracy Code Enforcement Division the required structural engineer's report, signed by the engineer of record. Said report must provide an analysis of the *entire building*, including the structural deficiencies outlined in the Notice and Order dated February 3, 2009.

**OR**

Submit application for a City of Tracy Demolition Permit. Begin asbestos or other haz-mat remediation and apply for a demolition release from the San Joaquin Air Pollution Control District.

**ON OR BEFORE APRIL 15, 2016**

Obtain all required City of Tracy Building Permits for the repair of the structure OR obtain Demolition Permit and begin demolition of the structure.

**ON OR BEFORE MAY 10, 2016**

All repairs must be completed or the building demolished. Building permits must be signed off by this date deeming the repairs or demolition complete.

**All building and zoning requirements must be met before a permit will be issued.**

Any person having any record title or legal interest in the building may appeal from the Notice and Order or any action of the building official to the board of appeals, provided the appeal is made in writing as provided in this code and filed with the building official within 30 days from the date of service of the Notice and Order (by **May 2, 2016**). Failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

Notice and Order  
Antonio Andrade Rodrigues - 714 N Central Avenue  
March 24, 2016  
Page 5

Please be further advised that California law authorizes the Court to appoint a receiver to take possession of your property for the purposes of abating all nuisances. Pursuant to that receivership process, the receiver may have the ability to sell the property to recover all costs of abating the nuisance, including attorney fees, with the receiver's lien taking priority over any liens on the property that may be in effect at the time of the sale.

Pursuant to Tracy Municipal Code Section 10.08.4905, this property continues to be in violation of the Tracy Municipal Code, therefore, the violations on record will be filed with the San Joaquin County Recorder's Office. If you, as the owner, correct said violations or the property otherwise becomes conforming after the notice is recorded, and the owner has notified the City in writing and consented to an inspection to confirm corrections, the Director of Development and Engineering Services shall record a release or cancellation of the notice of violation.

Information regarding this Notice and Order and the provisions contained herein is available in the Development Services Department, City Hall, (209) 831-6410.

  
JIM DECKER

Code Enforcement Officer/Building Inspector II

03/24/16  
Date

Attachments: Notice and Orders dated February 3, 2009, June 28, 2012, and March 21, 2016

cc: Bradley S. Albom, Registered Agent and Managing Member

JD:AC



# MOZAFFARI ENGINEERING

1500 F STREET  
MODESTO, CA 95354

TEL.: (209) 572-4430  
FAX: (209) 572-4436

September 8, 2016

Scott Owen  
City of Tracy  
Development & Engineering Services  
333 Civic Center Plaza  
Tracy, CA 95376

RE: 741 N. Central Ave (7188-16)  
Structural Observation Report

To Whom It May Concern:

This letter is in response to a request received from Scott Owen of the City of Tracy regarding the structural condition of the building at 741 N. Central Ave in Tracy, CA. The following assessment is based on a visit made to the site on August 26, 2016.

The building at this address is comprised of two adjoining structures labeled as "A" and "B" in Figure 1. No significant structural concerns were noticed while on site for structure "A" on the East side. Structure "B" on the West side has major structural concerns as described below. Approximate locations of the items are indicated in Figure 1.

1. Significant mortar loss is evident along the base of the West unreinforced masonry (URM) wall. See Figure 2. The extent and severity of the deterioration were not verifiable due to limited access from the adjacent property.
2. It appears that a positive connection between the wood beams supporting the roof framing and their supporting posts is missing. At one location there is a large gap between the splice in the beams over the post and the beam may not have sufficient bearing. See Figure 3. During a seismic event the beam could become separated from its support which could cause part of the roof to collapse.

The following items are all likely results from what appears to be foundation settlement at the North-West corner of structure "B".

3. At the interior URM bearing wall there is significant cracking in the mortar and brick over a door. See Figure 4.
4. At the North-West corner of structure "B" there is significant cracking of the brick and mortar in the two exterior walls. See Figures 5 and 6.
5. At the intersection of structures "A" and "B" on the North side the two walls have separated, indicating movement. See Figure 7.

If the foundation settlement is not addressed it is possible that, over time, there could be localized failure of the URM walls making that corner of the building unstable. A seismic event would likely cause the failure listed above and may result in the collapse of the North-West corner. Some options for addressing the settlement would be to stabilize/level the foundation and patch/repair the walls where they have cracked; or remove structure "B" entirely and infill the wall at structure "A" where the two are currently adjoined. Based on the overall condition of structure "B", our recommendation would be for its removal.

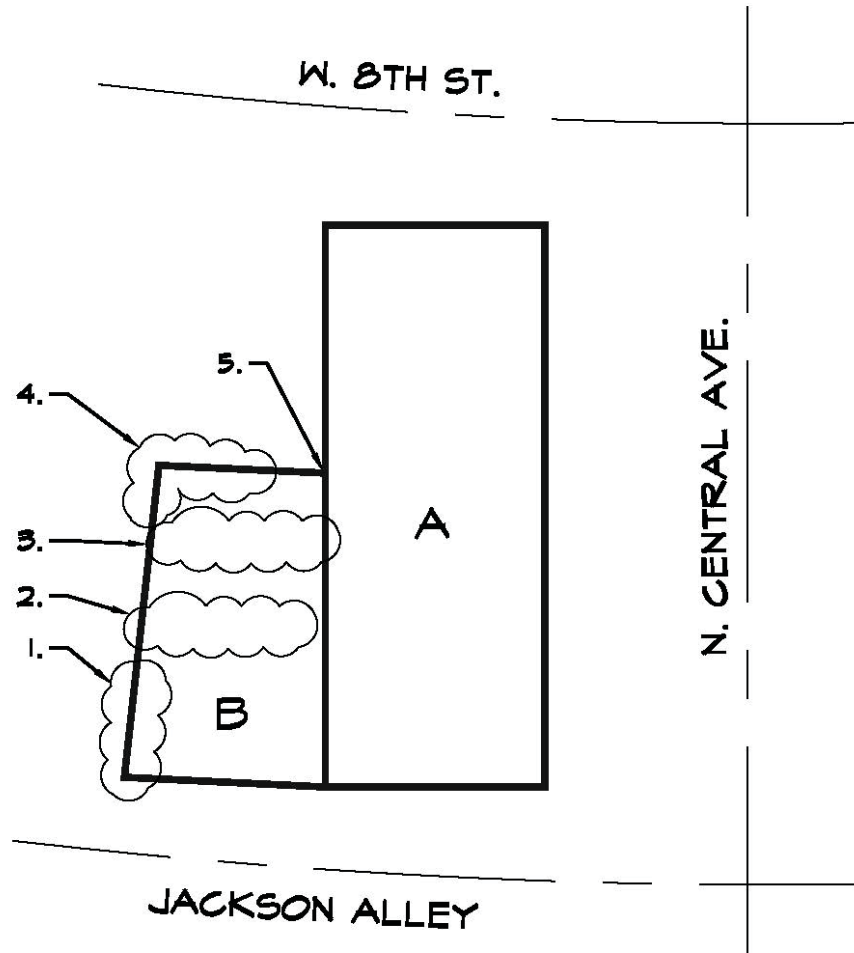


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Figure 1



## KEY PLAN





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Figure 2

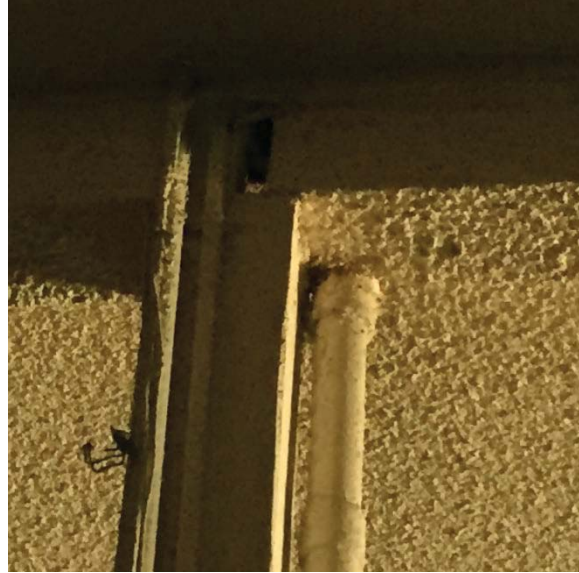


Figure 3



Figure 4



Figure 5



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Figure 6

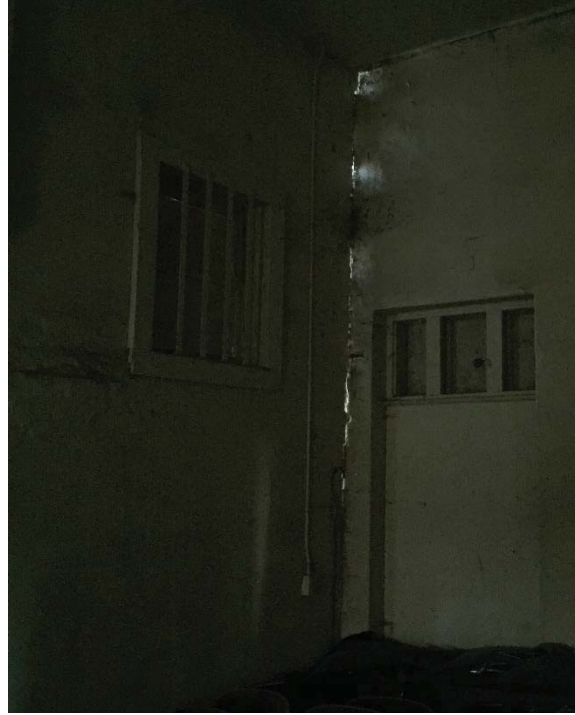


Figure 7

If you have any further questions or concerns, please do not hesitate to call me. Thank you.

Sincerely yours,

Nick Fahrney, S.E.

Checked by,



André Mozaffari, S.E.

BOARD OF APPEALS  
RESOLUTION BOA2018-001

DENYING AN APPEAL AND UPHOLDING A CITY OF TRACY NOTICE AND ORDER DATED OCTOBER 26, 2017, FOR VIOLATIONS RELATIVE TO THE 2016 BUILDING CODE (CBC), 2016 CALIFORNIA PLUMBING CODE (CPC), 2016 CALIFORNIA ELECTRICAL CODE (CEC), 2016 CALIFORNIA FIRE CODE (CFC), THE CALIFORNIA HEALTH AND SAFETY CODE (H&S), THE 1997 UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS (UCADB), AND SECTION 10.08.3460(A) OF THE TRACY MUNICIPAL CODE FOR PROPERTY LOCATED AT 714 NORTH CENTRAL AVENUE, TRACY, CA

WHEREAS, the property, which is the subject of this appeal, is located at 714 North Central Avenue, Tracy, California (APN 235-162-09) ("Property"), and

WHEREAS, the Property is owned by BBS Adventures, LLC, Bradley S. Albom (Managing Partner), and

WHEREAS, commencing in December, 2008, the Property was inspected by a City Code Enforcement official and found to have building and electrical code violations, and

WHEREAS, the Property was inspected again on June 28, 2012 and a Notice and Order was issued for hazardous electrical wiring and inadequate exiting facilities as well as the violations from the 2008 inspection, and

WHEREAS, the Property was inspected again on March 24, 2016 and another Notice and Order was issued for structural deficiencies as evidenced by the floor buckling and the brick façade detaching from the front entry way, causing the Property to be unsafe to occupy, and

WHEREAS, a structural engineer inspected the Property, at the request of the City, on August 26, 2016 and determined that there were multiple deficiencies in the structure of the building due to the unreinforced masonry and compromised floor systems on the first and second floors, and

WHEREAS, a Notice and Order was issued on October 26, 2017, which determined that there were numerous conditions on the Property which violated the 1997 Uniform Code for the Abatement of Dangerous Buildings (UCADB § 302(1)(2)(4)(5)(6)(7)(8)(13)(16)); the California Building Code(105.1, 111.1); the California Plumbing Code (801.2), 803.3, 814.1); the California Fire Code (304.1.1,110.1.1); the California Electric Code (110.3(B), 334.10(3)); the California Health and Safety Code (17920.3(b)(4),(d),(f),(j),(l)); and the Turlock Municipal Code (5.20.050). A copy of the Notice and Order is attached hereto and hereinafter incorporated by reference as Exhibit A, and

WHEREAS, the October 26, 2017 Notice and Order required certain corrective actions, which have not been taken by the Property owner, and

WHEREAS, the Property owner appealed Notice and Order on November 3, 2017, the appeal was based on the following reasons: 1) the time line and deadlines set in the Notice and Order are unreasonable and unachievable given the scope of work and analysis being requested; 2) the demolition option is unreasonable under the UCADB Code cited by the City's notice and that section 403.1.3 of the UCADB should be applied; and 3) any other applicable causes which may come to light, and

WHEREAS, a public hearing was held on January 25, 2018, during which the Board heard and considered all relevant documents relating to the appeal, including but not limited to code enforcement records, and all other relevant documents, oral testimony and all other relevant evidence relating to the Property, the violations set forth in the Notice and Order and the appeal of the Property owner, and

WHEREAS, the Board continued the January 25, 2018, to a future date to allow the City and the Property owner to provide further briefing to the Board, and

WHEREAS, the Board reconvened a public hearing held on March 21, 2018, and again considered all relevant documents relating to the appeal, including but not limited to code enforcement records, and all other relevant documents, oral testimony and all other relevant evidence relating to the Property, the violations set forth in the Notice and Order and the appeal of the Property owner.

NOW THEREFORE, BE IT RESOLVED by the Board of Building Appeals that it hereby makes the following findings based on the evidence, including oral testimony, presented at the January 25, 2018 and the March 21, 2018 hearings:

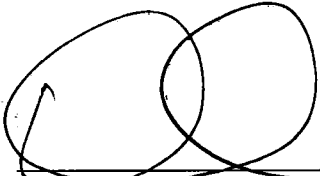
1. The foregoing recitals are true and correct and are incorporated herein as findings.
2. The Notice and Order dated October 26, 2017, and all violations contained therein, are appropriate interpretations pertaining to the enforcement of the UCADB, the California Building Standards, the Health and Safety Code and the Tracy Municipal Code and the violations are an ongoing health and safety concern.
3. The violations have been continuing to some degree since 2008 and all required actions to correct the violations and the timelines for that corrective action set forth in the Notice and Order dated October 26, 2017 are appropriate and reasonable.

BE IT FURTHER RESOLVED, based on the aforementioned findings, the Building Appeals orders that the Property owner's appeal dated November 3, 2017 is

denied and the Notice and Order dated October 26, 2017 and all orders contained therein are upheld.

The foregoing Building Board of Appeals Resolution BOA2018-001 was passed and adopted by the Building Board of Appeals on the 21<sup>st</sup> day of March, 2018 by the following vote:

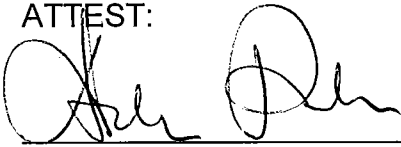
AYES: Aubin, Alegre, Caling, Davis  
NOES: None  
ABSENT: Yerian  
ABSTAIN: None



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DENNIS ALEGRE, CHAIR

ATTEST:



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Adrienne Richardson, Secretary

RESOLUTION \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TRACY REGARDING  
THE CITY OF TRACY'S NOTICE AND ORDER ISSUED ON PROPERTY LOCATED AT  
714 CENTRAL AVENUE – CODE ENFORCEMENT CASE 16CD-0188

WHEREAS, Since December 2008, the City of Tracy Code Enforcement Division has conducted multiple inspections of the property located at 714 Central Avenue, also known as The Great Plate (“the Property”), and observed structural issues and numerous violations of State and local laws. The property owner has failed correct the violations and ensure a safe property. In the current condition, the Property creates a grave safety hazard for the surrounding neighborhood, and

WHEREAS, Numerous building inspections conducted by City staff and a structural engineer hired by the City of Tracy deemed the building dangerous due to unreinforced masonry, deficient structural wood members, electrical code violations, lack of adequate posts supporting the floor load above the basement , evidence of water contacting the basement posts, inadequate exiting facilities, the lack of required firewall separations, noticeable deflection of the building front, and deteriorated flooring and supports on the first floor of the building, and

WHEREAS, Due to the dangerous conditions of the building, the City issued an Order to Vacate on March 24, 2016, after the City's Building Official determined that the Property's structural deficiencies made the building unsafe to occupy, and

WHEREAS, On November 3, 2017 the property owners of 714 Central Avenue appealed the City's Notice and Order and a hearing was conducted by the City of Tracy's Building Board of Appeals on January 25, 2018, and continued on March 21, 2018, and

WHEREAS, After two days of hearings, the Board upheld the City's Notice and Order, and

WHEREAS, The Tracy City Council heard an appeal submitted by the property owners of 714 Central Avenue, appealing the Building Board of Appeals decision rendered on March 21, 2018, which upheld the City's Notice and Order dated March 24, 2016;

NOW, THEREFORE, BE IT RESOLVED That the City Council of the City of Tracy hereby **UPHOLDS** or **REJECTS** the findings and actions taken by the Building Board of Appeals regarding the Notice and Order dated March 24, 2016, issued by the City of Tracy Code Enforcement Division addressing the structural deficiencies for the building located at 714 Central Avenue.

\*\*\*\*\*

The foregoing Resolution 2018-\_\_\_\_\_ was passed and adopted by the Tracy City Council on the 22nd day of May, 2018, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK