

RESOLUTION NO. 24-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENIFEE, CALIFORNIA,
FINDING AND DECLARING CONDITIONS PRESENT AT THE KRIKORIAN
ENTERTAINMENT COMPLEX RETAIL PADS TO BE A PUBLIC NUISANCE AND
ORDERING THE ABATEMENT THEREOF**

WHEREAS, the Krikorian Entertainment Complex (“Project”) is located at 27387, 27459, and 27483 Newport Road and consists of three partially completed commercial structures, including one retail framed shell building, one burned retail building with only foundation/posts remaining, and one partially constructed movie theater building (“Property”); and

WHEREAS, the Property is owned by Showprop Menifee De, LLC (“Owner”); and

WHEREAS, the City has been involved with code enforcement issues relating to the Property since September 1, 2021, when the Property was found to be in non-compliance of development standards, ridden with graffiti, and not maintained consistent with landscaping standards; and

WHEREAS, on June 2, 2023, the City-issued permits for the Project expired due to lack of progress; and

WHEREAS, on October 12, 2023, the City issued the Owner a Notice of Intent to Abate Public Nuisance in connection with 27387 Newport Road (theater building) (“Theater Notice to Abate”) citing each of the following considerations which led the City to determine that the Property constituted a public nuisance: (a) degree of partial construction; (b) property constituted an attractive nuisance or otherwise posed or promoted a hazard to the health, safety, or welfare of the general public; (c) the degree of visibility of this condition from public or adjoining private real property; (d) the scope of work that was needed to abate the nuisance; (e) the lack of valid approvals, permits, or other entitlement for the partially constructed building or structure; (f) promptness with which a responsible person had applied for and obtained all required City approvals and permits in order to lawfully comply with the City’s nuisance abatement efforts; (g) failure of a responsible person to comply with other required technical code requirements, including requesting and passing required inspections in a timely manner while completing nuisance abatement actions; (h) failure to apply for extensions to any required permit or to renew an expired permit; (i) failure of a responsible person to make substantial progress in performing nuisance abatement actions under any required permit that has expired or is about to expire; and (j) delays in completing nuisance abatement actions under any required permit; and

WHEREAS, the Owner timely appealed the Theater Notice to Abate; and

WHEREAS, on November 29, 2023, the City issued the Owner a Notice of Intent to Abate Public Nuisance in connection with 27459 and 27483 Newport Road (“Retail Pads”) (“Retail Pad Notice to Abate”) citing each of the following considerations which led the City to determine that the Property constituted a public nuisance: (a) degree of partial construction; (b) property constituted an attractive nuisance or otherwise posed or promoted a hazard to the health, safety, or welfare of the general public; (c) the degree of visibility of this condition from public or adjoining private real property; (d) the scope of work that was needed to abate the nuisance; (e) the lack of valid approvals, permits, or other entitlement for the partially constructed building or structure; (f) promptness with which a responsible person had applied for and obtained all required City approvals and permits in order to lawfully comply with the City’s nuisance abatement efforts; (g) failure of a responsible person to comply with other required technical code requirements, including requesting and passing required inspections in a timely manner while completing nuisance abatement actions; (h) failure to apply for extensions to any required permit or to renew an expired permit; (i) failure of a responsible person to make substantial progress in performing nuisance abatement actions under any required permit that has expired or is about to expire; and (j) delays in completing nuisance abatement actions under any required permit; and

WHEREAS, the Owner appealed the Retail Pad Notice to Abate on November 30, 2023; and

WHEREAS, on February 26, 2024, the hearing officer issued his decision on the Owner's appeal of the Theater Notice to Abate and denied the appeal; and

WHEREAS, on April 25, 2024, the City entered the Property pursuant to a Court-issued inspection warrant alongside with a team of Structural Engineers, City Fire Inspectors, and other construction specialists in order to fully assess the fire, life safety and environmental and health hazards at the Property; and

WHEREAS, the results of the inspection revealed that a number of substandard conditions require attention with respect to the theater structures, including each of the following: (1) ICF Blocks have been exposed to the elements for four (4) years, which exceeds the manufacturer's specifications of three (3) months and which therefore triggers a recertification requirement for those blocks that have yet to be installed to determine compliance with the applicable regulations that establish the standard for minimum levels of plumbness and tolerances for structural concrete; (2) exposed steel, anchor bolts, and embedment plates require third-party recertification to ensure that tolerances are still within design compliance; (3) poured in place beams indicated a "cold joint" triggering the requirement for testing and recertification for structural integrity and design loads; (4) holding water observed in auditorium 1 and 3 which triggers the requirement for additional testing for slab absorption and concrete design; (5) temporary wall bracing requires testing for lateral strength; and (6) ICF blocks located above the second lift must be removed for inspection purposes to verify adequate structural integrity of existing vertical rebar along with plumbness consistent with applicable regulations. With respect to the conditions of the remaining structures, the report found as follows: (1) for Pad 3, the floor plate may need to be replaced, and the OSB Sheathing requires replacement, in addition to the requirement to recertify all glulam/engineered wood products on those remaining structures; and (2) for Pad 4, the concrete curb anchor bolts/hardware will need to be replaced and the epoxy will require third party inspection, in addition to an inspection of the steel columns and the saddles connected at the top, which indicate "twisting", and which therefore there necessitates a determination as to whether these columns still comply with the required design tolerances; and

WHEREAS, the conditions set forth above constitute public nuisances under each of the City's regulations: Menifee Municipal Code section 11.20.020(2)(a-j), (4), (5), (7), (8), (13), (14), (27), (34), (39), (40 (a, c); and

WHEREAS, a public hearing was held before the City Council on June 5, 2024, and all interested parties were provided notice and an opportunity to be heard on the issue of whether the conditions present at the Theatre constitute public nuisances. The City Council adopted a resolution that declared the Theater a public nuisance and ordered the owner to abate the nuisance conditions. The Council further authorized the City to abate if the owner failed to do so in a timely manner; and

WHEREAS, on June 13, 2024 the land use entitlements for the Project expired; and

WHEREAS, on October 30, 2024, the City held a second administrative appeal hearing, this time with respect to the Retail Pads; and

WHEREAS, on November 22, 2024 the hearing officer issued his decision on the Owner's appeal of the Retail Pads Notice to Abate and upheld the Notice to Abate; and

WHEREAS, in conformance with Menifee Municipal Code Section 11.20.130(B), staff recommends that the City Council adopt a resolution that declares the Retail Pads a public nuisance and orders the Owner to timely abate said conditions; and

WHEREAS, California Civil Code Section 3480 provides that "[a] public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal"; and

WHEREAS, a public hearing was held before the City Council on December 17, 2024, and all interested parties were provided notice and an opportunity to be heard on the issue of whether the conditions of the Retail Pads constitute public nuisances.

NOW, THEREFORE, the City Council of the City of Menifee resolves as follows:

Section 1. The forgoing recitals are true and correct and the City Council so finds and determines.

Section 2. The City Council finds and declares that the Retail Pad structures present a danger to the health, property, safety, and welfare of the public and therefore constitutes a public nuisance as defined in California Civil Code Section 3480 and the Menifee Municipal Code.

Section 3. The City Council orders the owner of the Retail Pads to abate the nuisance conditions within 30 days by (1) demolishing all remaining structures on the Retail Pads (including foundations, etc.); (2) removing all debris and building materials, supplies, and equipment from the Retail Pads; and (3) properly securing the Retail Pads to ensure that unauthorized individuals cannot enter.

Section 4. A copy of this resolution of the City Council ordering the abatement of the nuisances shall be served upon the Owner of the Property. The service shall be made both by a mailing that is addressed to the Owner at the last known address of the Owner and by posting a copy on the Retail Pads. The Owner shall have the right to have the nuisances abated in accordance with this resolution and at his own expense, provided the same is completed prior to the expiration of the 30-day abatement period.

Section 5. If the nuisances conditions of the Retail Pads are not completely abated by the Owner as directed within the 30-day period, the City shall cause the same to be abated by the City personnel or private contract, and the personnel or persons under contract are expressly authorized to enter upon the premises for such purposes. The Owner of the premises shall be liable to the City for all costs of the abatement, including administrative costs.

Section 6. In accordance with the provisions of Menifee Municipal Code Sections 11.20.150-11.20.170, the City Council directs City staff to maintain an itemized account of all costs incurred by the City in abating the nuisances, including all administrative and legal costs and expenses. City staff shall submit to the City Council for confirmation an itemized written report showing the costs. The City Council may modify the report if it is deemed necessary and shall then confirm the report by motion or resolution. Pursuant Government Code Sections 38773.1 and 38773.5, the total cost, fees, and expenses of abatement, including all administrative costs, shall constitute a lien or a special assessment against that parcel and shall be collected in accordance with applicable State and City laws.

Krikorian Abatement, Retail Pads
December 17, 2024

PASSED, APPROVED AND ADOPTED this 17th day of December 2024.

Ricky Estrada, Mayor

Attest:

Stephanie Roseen, City Clerk

Approved as to form:

Jeffrey T. Melching, City Attorney