

BUILDING STANDARDS APPEALS BOARD

Appeal Requested By:

James Molina

Code Enforcement Case Number: E25-13830

Property Address : 3436 N Virginia Ln

APN: 437-221-29

Hearing Details:

June 16, 2026, at 1:00 p.m.

Fresno City Hall

2600 Fresno St., Council Chambers

City Presentation By:

Calvin Massey, Deputy City Attorney

Derek Henderson, Community Revitalization Specialist



Action of the BSAB

After today's hearing, the Building Standards Appeals Board (BSAB) may take one of the following actions:

1. **CONFIRM** Violation #1 and Violation #2 in both the Notice and Order, and **CONFIRM** the Citation; OR
2. **CONFIRM** certain violations but **DISMISS** other violations in the Notice and Order, and **CONFIRM** the Citation issued; OR
3. **DISMISS** the Notice and Order and Citation.

Code Enforcement recommends that the BSAB select **Option 1** above, **CONFIRM** the Notice and Order and Citation.

Code Enforcement Case Summary

- ▶ October 1, 2025, Code Enforcement case E25-13830 was opened due to a report of unpermitted construction occurring at night. (Appeal Packet pg. 3)
- ▶ The property was inspected on October 16, 2025, by Inspector Derek Henderson. The inspection found a wall had been moved to close off a hallway, and the house was being remodeled without permits. (Id)
- ▶ Inspector Henderson issued a Notice and Order on November 5, 2025, which gave the Homeowner and appellant James Molina until November 24, 2025, to get a permit to fix the Violations. (Id)

Appellant James Molina appealed this Notice and Order.

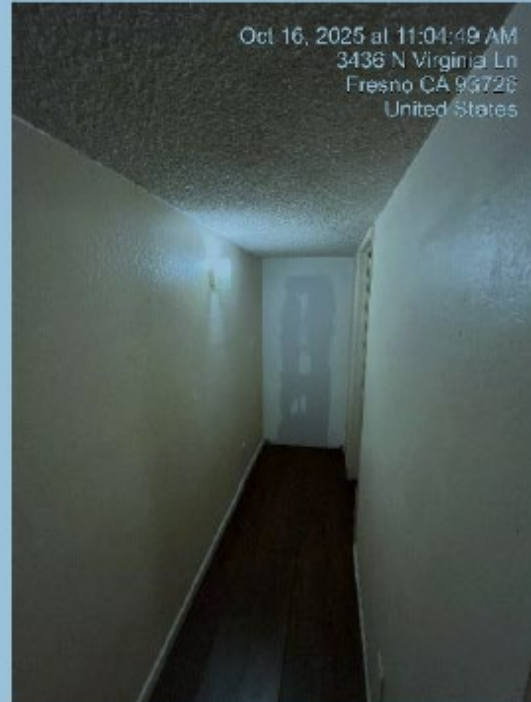
Photos of Alterations 10/16/2025



Oct 16, 2025 at 11:02:13 AM
3438 N Virginia Ln
Fresno CA 93728
United States

Date: 10/16/2025 11:02:13 AM

10/16/2025 View of wall mounted HVAC in the kitchen/dining area. DAH



Oct 16, 2025 at 11:04:49 AM
3438 N Virginia Ln
Fresno CA 93728
United States

10/16/2025 11:04:49 AM

10/16/2025 Hallway view of a bedroom entry door closed off. DAH



Oct 16, 2025 at 11:04:09 AM
3438 N Virginia Ln
Fresno CA 93728
United States

Date: 10/16/2025 11:04:09 AM

10/16/2025 Hallway view of a bedroom entry door closed off. DAH

Summary Continued

- ▶ Appellant appeal did not deny construction; it merely stated the alterations were “minor” or that he wanted “more time” to obtain a permit. (Appeal Packet pgs. 3, 52)

JAMES MOLINA (Name)
3436 N. VIRGINIA LN (Mailing Address)
FRESNO, CA 93726 (City, State, Zip Code)

CITY OF FRESNO
NOV 19 2025
RECEIVED BY: JLM

E25-13830 (Citation/Case Number)
3436 N. Virginia Lane (Address of Violation)
1559 285 2398 (Telephone Number/Email address)
DERMULO@FRESNO.GMAIL.COM

Please include a copy of the specific order, citation, decision, or determination being appealed.

****Please note that additional administrative fees for Code Enforcement staff time (re-inspection and/or research) may be incurred. Please refer to your original notices for more information.****

Description of appellant's legal existing interest in the property, right or entitlement of the order, citation, decision, or determination being appealed (Are you the property owner, business owner, tenant, other?):

I AM THE PROPERTY OWNER OF 3436 N. VIRGINIA LN. (APN 437-221-29) and hold full legal responsibility for the use, maintenance and compliance of the property with city of Fresno code enforcement requirements.

Brief description of the specific order, citation, decision, or determination being appealed (What are you appealing?):

I AM APPEALING CORRECTION NOTICE AND ORDER CASE No. E25-13830 dated NOVEMBER 5, 2025. THE NOTICE ALLEGES closure of the third bedroom entry door with out permits. It also ALLEGES remodeling of the house without required plans, permits or inspections.

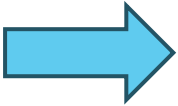
Statement of the relief sought (What are you requesting?) **PLEASE NOTE- THE HEARING OFFICER IS PROHIBITED FROM REDUCING OR REVOKING A FINE PER FMC §1-409(g):**

I request DISMISSAL OR MODIFICATION OF THE CITED violations based on substantial compliance. Alternatively, I seek of retroactive permitting to validate the minor alterations. I also request DELAY IN ENFORCEMENT under California Health & Safety Code §17980.12 (Section 12). Reasons why such relief should be granted (Why should your request be granted?): THE THIRD BEDROOM WERE SHUTTED, NOT CLOSED, WITH SAFE PATHWAY ACCESS PRESERVED, SEE EXHIBITS A, B, C, D. NO ELECTRICAL PLYMING, OR STRUCTURAL SYSTEMS WERE ALTERED, SO HABITABILITY AND SAFETY REMAIN INTACT.

Remodeling WAS limited to minor, non-structural work, NOT requiring permits under FMC/CRC intent. Enforcement requiring removal/restoration is disproportionate given absence of health or safety risk. Retroactive permitting and delay will need an interpreter at the hearing? For what language? Provide a fair lawful remedy.

no

Appeal
Packet
pg. 52



Summary Continued

- ▶ On November 5, 2025, a review of records showed no permits issued to the property, and Inspector Henderson called Appellant to inquire as to why.
- ▶ On January 8, 2026, a meeting was held with City Code and Planning staff. Planning suggested a Miscellaneous inspection so that Appellant would know what to do to bring the property into compliance. Resident of the property and Appellant's cousin Catarino Prado was also at the meeting when an inspection was scheduled for January 26, 2026. (Appeal Packet pg. 3)
- ▶ January 26, 2026, inspection did not occur, it was later rescheduled by Catarino Prado who left the Inspector a voicemail on February 24, 2026.

Summary Continued

- ▶ “Hello, this message is for Derek. Derek, this is Catarino regarding the Virginia property, case number E25-13830. We just got a new date of March 23 with Robert Fisher, he was the one who scheduled the appointment and that’s for 8:00 a.m., rescheduling. If you have any questions, feel free to give me a call. (Phone number redacted). Thank you, bye bye” (Appeal packet pgs. 4, 60)
- ▶ On March 23, 2026, the date of new Miscellaneous inspection by Planning, the inspection did not occur, and Code reviewed plannings notes as “the Building department reached out to Catarino at 8:44am and he left for work due to “no prior forewarning confirmation to the 8:00am scheduled appointment with the building inspector”.(Appeal Packet pgs. 4, 65)

Notes on Miscellaneous inspection March 23, 2026

Com Audit History (0)

Scheduled Date
03/23/2026

Inspection Date
03/23/2026

Department

Result Comment

Spoke to contact provided at 8:44a
He left for work and will reschedule.
There was no prior forewarning confirmation to the 8a scheduled appt. with building inspector.

Total Time
0

Vehicle ID

Scheduled Start Time

Inspection Time
03:08 PM

Inspector
Morgan Crawford

Summary Continued

- ▶ On March 24, 2026, Inspector Henderson checked for permits at the property and none had been issued. Inspector Henderson issued a citation for both Violations listed in the Notice and Order.
- ▶ The citation was issued 139 days after the Notice and Order to obtain a permit for the alterations appellant admits in his appeal of the Notice and Order form.
- ▶ James Molina appealed the Citation (Appeal Packet 4, 55)

Scope of Hearing

- ▶ Two pertinent limitations on the scope of a hearing:
 1. The order, citation, decision, or determination that was appealed; and
 2. The grounds for relief raised by the Appellant.

FMC § 1-408(e)

Staff Analysis

- ▶ In order to confirm the Notice and Order, the BSAB must be satisfied by a preponderance of the evidence that:
 1. Violations of the FMC existed on the Property; and
 2. Proper notice was served on the property owner.

Standard of Proof

- ▶ The Supreme Court of the United States has established that preponderance of the evidence is met when the trier of fact believes “the existence of a fact is more probable than its nonexistence.”
 - ▶ *Concrete Pipe and Products of California, Inc. v. Construction Laborers Pension Trust for Southern California* (1993) 508 U.S. 602, 622; citing *In re Winship*, (1970) 397 U.S. 358, 371–372, (Harlan, J., concurring) (brackets in original).
- ▶ In quantifiable terms, if the BSAB is 51% sure that a fact is true, the City has met the burden and the BSAB should find in favor of the City for that fact

Staff Analysis

- ▶ FMC sections 11-307 and 11-308 state that it is unlawful to erect or construct, alter, enlarge, repair, buildings or structures without first obtaining the required permits
- ▶ These alterations were present when Inspector Henderson inspected the property October 16, 2025, and determined that no permits had been obtained
- ▶ Appellant's appeal admits to alterations
- ▶ After 139 days, and a meeting with Appellant Mr. Molina, he had yet to obtain a permit which was verified by inspector Henderson on March 24, 2026
- ▶ The violations existed when the Notice and Order was issued, and the Citation was properly issued after a reasonable time to cure had elapsed

Proper Service

- ▶ The Notice and Order was served by Certified and First Class Mail on November 5, 2025. (Proofs of Service, Appeal Packet pgs. 21-22)
- ▶ The Citation was issued appropriately 139 days after the Notice and Order
- ▶ The Citation was served on Appellant on March 25, 2026, by Certified and First Class Mail. (Proofs of Service, Appeal Packet pgs. 40-42)
- ▶ There is no requirement to stay additional enforcement while an appeal is pending.

Due Process

- ▶ Appellant raises Due Process as an affirmative defense
- ▶ There is no Due Process violation because we are here for his hearing.
- ▶ The City had a meeting with Appellant and worked him for 139 days before issuing the Citation.
- ▶ Appellant does not articulate what Due Process he is claiming and provides no citations or authorities to support the claim.
- ▶ The violations are simply that a permit was required before construction was performed. No permit has been issued for this property.
- ▶ Due Process as a defense requires Appellant prove a Due Process violation by a preponderance of Evidence and that is solely the burden of Appellant.

Conclusion

- ▶ Staff recommends you find Option #1 and Confirm the Notice and Order and the Citation.
- ▶ A Decision Matrix has been provided for your use.
- ▶ Thank you for your time in hearing this case.