

**MEMORANDUM**

**DATE:** April 4, 2012

**TO:** Samantha D. Abell, City Manager

**THRU:** Eric Meyer, Planning and Economic Development Director  
Patty Huffman, Grants and Projects Manager

**FROM:** Joseph E. Belles, Code Enforcement Officer

**SUBJECT:** Abatement of Substandard Property Conditions, 2106 Hasting Road and PIDN 85700278.100 (adjacent property) Gautier Mississippi 39553

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**ISSUE:**

Pursuant to the Mississippi Codes Annotated, 1972 § Title 21, Chapter 19, Section 11, Staff requests that the City Council set a public hearing date for May 15, 2012, to receive public comment regarding the abatement of the subject property.

**LEGAL DESCRIPTION:**

This property listed on the land assessment roll more generally described as:

PIDN 85700278.000 and 85700278.100  
Lot 7 James Martin Estate Subdivision  
Deed Book 1640, page 233 and Deed Book 1609, page 154

**Property Address:** 2106 Hasting Road and Lot 7 PIDN 85700278.100

**Owners of Record:** Frank C or Donna M. Gann

**Last Known Address:** 509 Forest Hill Drive  
Ocean Springs, Mississippi 39564

**BACKGROUND:**

The property originally had a manufactured home that was demolished by the current owner's son and the property was left with a couple accessory buildings without a primary structure on the property. Code enforcement office initiated written communication with the current owners on August 25, 2011, citing accessory building, recreational equipment stored on the vacant lot and scattered trash/debris required removal. Additional letters were dated and mailed November 14, 2011 and February 22, 2012, requesting the accessory structures be removed by March 23, 2012. On/about March 5, 2012, the last remaining accessory building demolition was started but has remained as depicted in the attached photos for the last month and no other property clean up has been observed. Other property owners and tenants in the vicinity are concerned with the

visible appearance to their neighborhood and the potential dangerous condition to their children. Code enforcement has identified both parcels of land because the dilapidated accessory structure may be located on both properties and the exact survey points are not known or identified. Code enforcement informed the owners by letter on April 4, 2012, the property would be considered for abatement by the City of Gautier, City Council if not in compliance by April 17, 2012.

**APPLICABLE LAW:**

Mississippi Statutes establishes the abatement process for public health, safety and welfare thus:

(1) To determine whether property or parcel of land located within a municipality is in such a state of uncleanliness as to be a menace to the public health, safety and welfare of the community, a governing authority of any municipality shall conduct a hearing, on its own motion, or upon the receipt of a petition \* \* \* signed by a majority of the residents residing within four hundred (400) feet of any property or parcel of land alleged to be in need of the cleaning. Notice shall be provided to the property owner by:

(a) United States mail \* \* \* two (2) weeks before the date of the hearing mailed to the address of the subject property and to the address where the ad valorem tax notice for such property is sent by the office charged with collecting ad valorem tax; and

(b) Posting notice for at least two (2) weeks before the date of a hearing on the property or parcel of land alleged to be in need of cleaning and at city hall or another place in the municipality where such notices are posted.

Any notice required by this section shall include language that informs the property owner that an adjudication at the hearing that the property or parcel of land is in need of cleaning will authorize the municipality to reenter the property or parcel of land for a period of one (1) year after the hearing without any further hearing if notice is posted on the property or parcel of land and at city hall or another place in the municipality where such notices are generally posted at least seven (7) days before the property or parcel of land is reentered for cleaning. A copy of the required notice mailed and posted as required by this section shall be recorded in the minutes of the governing authority in conjunction with the hearing required by this section.

If, at such hearing, the governing authority shall adjudicate the property or parcel of land in its then condition to be a menace to the public health, safety and welfare of the community, the governing authority, if the owner does not do so himself, shall proceed to clean the land, by the use of municipal employees or by contract, by cutting grass and weeds; filling cisterns; removing rubbish, dilapidated fences, outside toilets, dilapidated buildings, personal property, which removal of personal property shall not be subject to the provisions of Section 21-39-21, and other debris; and draining cesspools and standing water there from. The governing authority may by resolution adjudicate the actual cost of cleaning the property and may also impose a penalty not to exceed One Thousand Five Hundred Dollars (\$1,500.00) or fifty percent (50%) of the actual cost, whichever is more. The cost and any penalty may become a civil debt against the property owner, or, at the option of the governing authority, an assessment against the property. The "cost assessed against the property" means either the cost to the municipality of using its own employees to do the work or the cost to the municipality of any contract executed by the municipality to have the work done, and administrative costs and legal costs of the municipality. For subsequent cleaning within the one-year period after the date of the hearing at which the property or parcel of land was adjudicated in need of cleaning, upon seven (7) days' notice posted both on the property or parcel of land adjudicated in need of cleaning and at city hall or

another place in the municipality where such notices are generally posted, and consistent with the municipality's adjudication as authorized in this subsection (1), a municipality may reenter the property or parcel of land to maintain cleanliness without further notice or hearing no more than six (6) times in any twelve-month period with respect to removing dilapidated buildings, dilapidated fences and outside toilets, and no more than twelve (12) times in any twenty-four-month period with respect to cutting grass and weeds and removing rubbish, personal property and other debris on the land, and the expense of cleaning of the property shall not exceed an aggregate amount of Twenty Thousand Dollars (\$20,000.00) per year, or the fair market value of the property subsequent to cleaning, whichever is less. The governing authority may assess the same penalty for each time the property or land is cleaned as otherwise provided in this section. The penalty provided herein shall not be assessed against the State of Mississippi upon request for reimbursement under Section 29-1-145, nor shall a municipality clean a parcel owned by the State of Mississippi without first giving notice.

(2) If the governing authority declares, by resolution, that the cost and any penalty shall be collected as a civil debt, the governing authority may authorize the institution of a suit on open account against the owner of the property in a court of competent jurisdiction in the manner provided by law for the cost and any penalty, plus court costs, reasonable attorney's fees and interest from the date that the property was cleaned.

(3) If the governing authority does not declare that the cost and any penalty shall be collected as a civil debt, then the assessment above provided for shall be a lien against the property and may be enrolled in the office of the circuit clerk of the county as other judgments are enrolled, and the tax collector of the municipality shall, upon order of the board of governing authorities, proceed to sell the land to satisfy the lien as now provided by law for the sale of lands for delinquent municipal taxes.

(4) All decisions rendered under the provisions of this section may be appealed in the same manner as other appeals from municipal boards or courts are taken.

\* \* \*

(5) Nothing contained under this section shall prevent any municipality from enacting criminal penalties for failure to maintain property so as not to constitute a menace to public health, safety and welfare.

\* \* \*

### **RECOMMENDATION:**

Staff recommends City Council hold a public hearing on May 15, 2012, in order to determine the property a menace to the public health, safety and welfare of citizens and direct Staff to commence with abatement of the dilapidated structure.

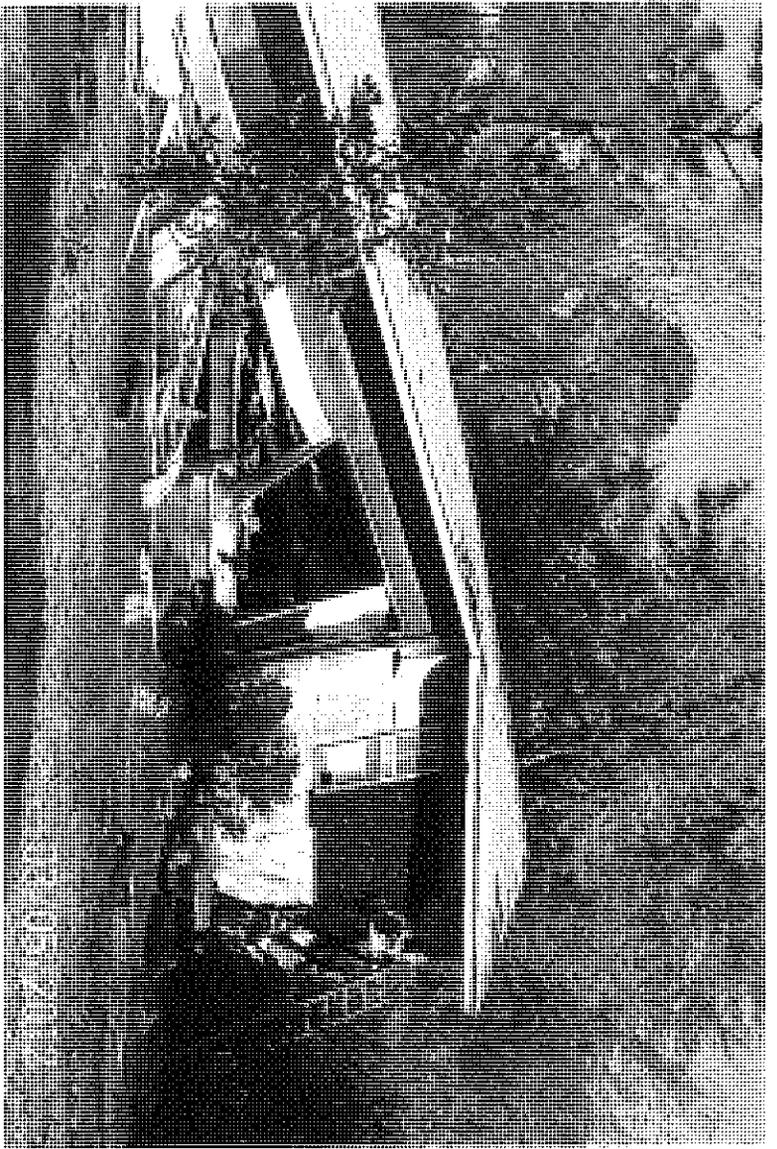




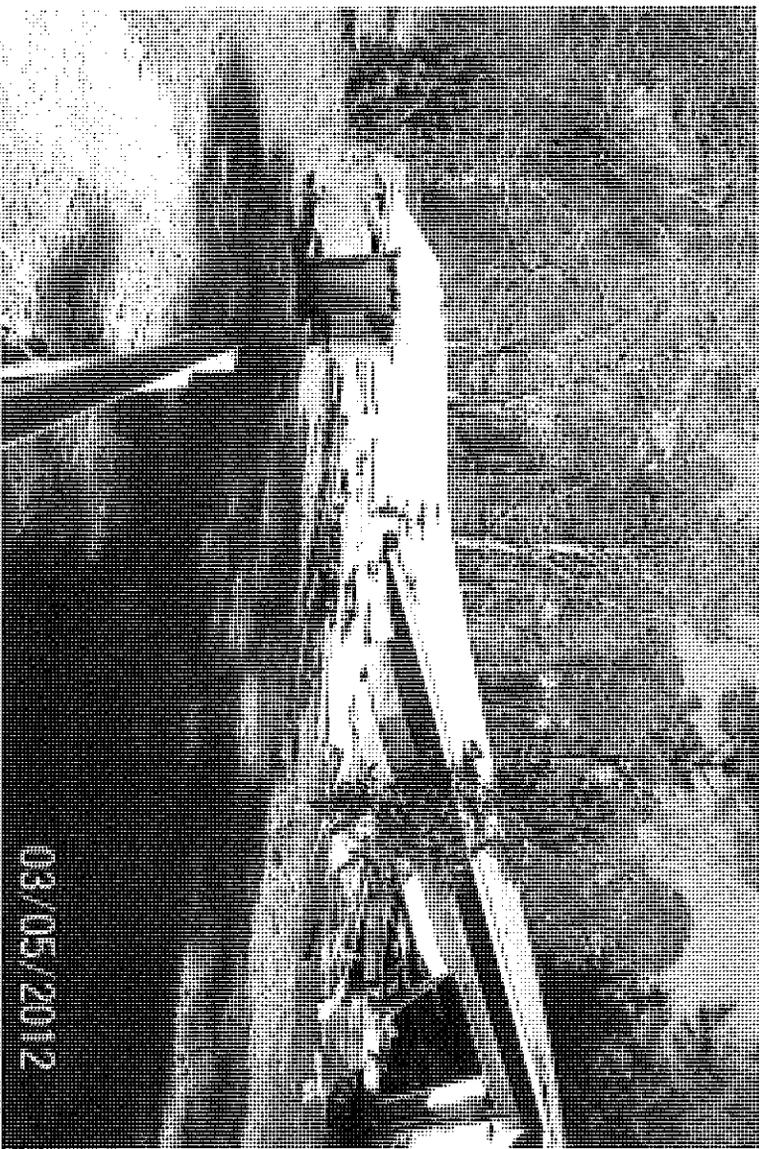
Google earth



*Imagery date 11/10/2011*



03/05/2012

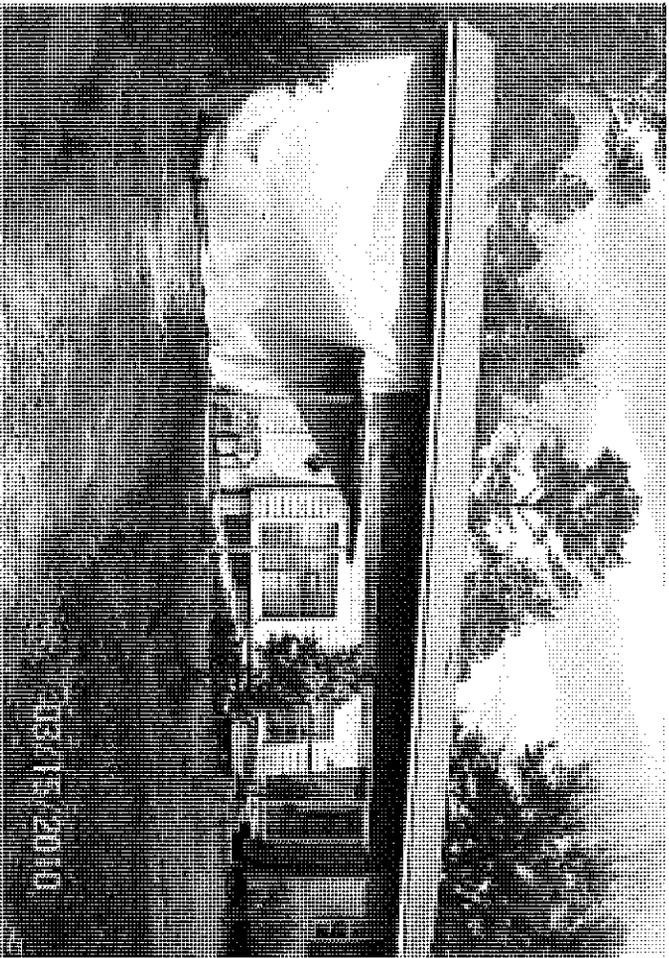
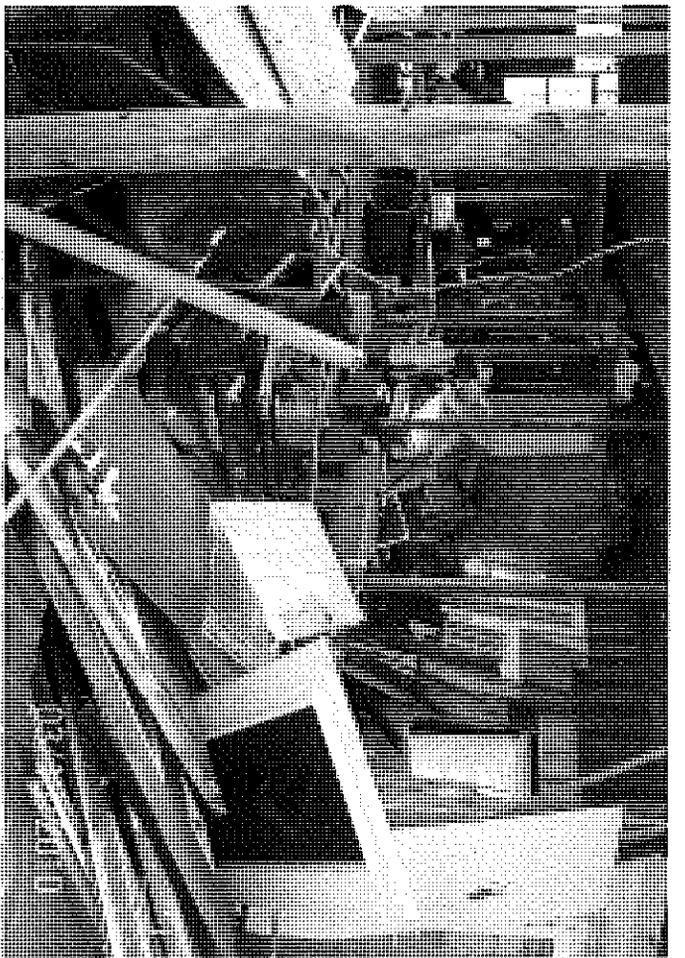
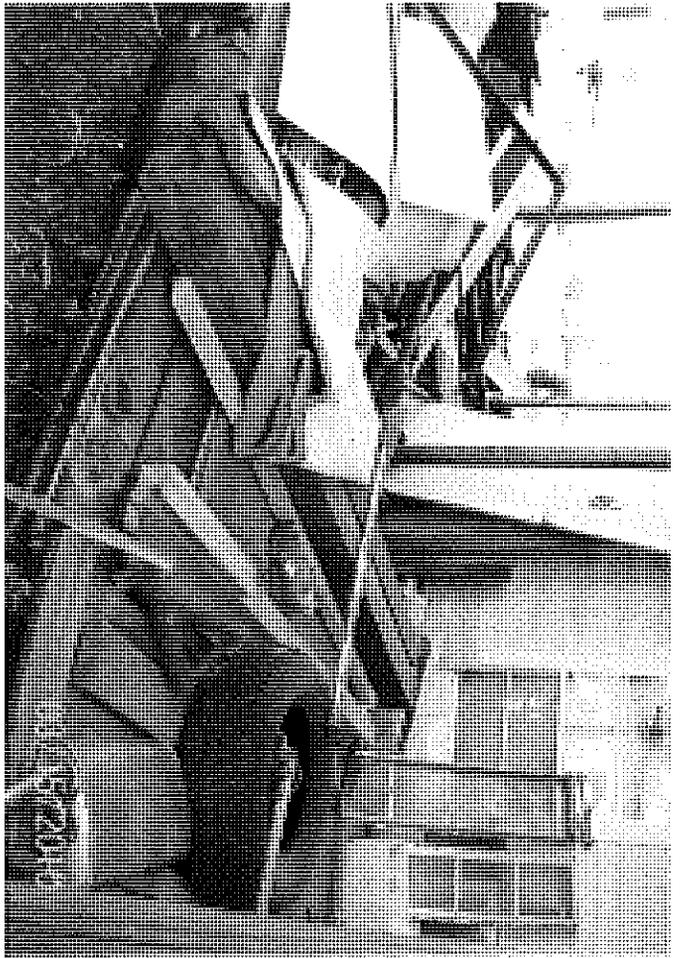


03/05/2012



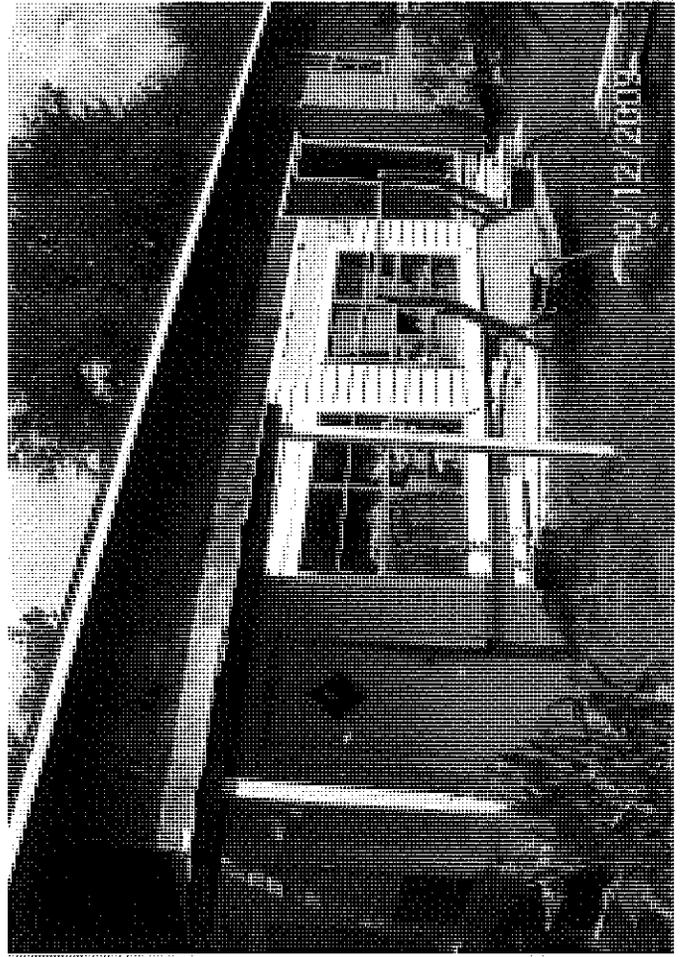
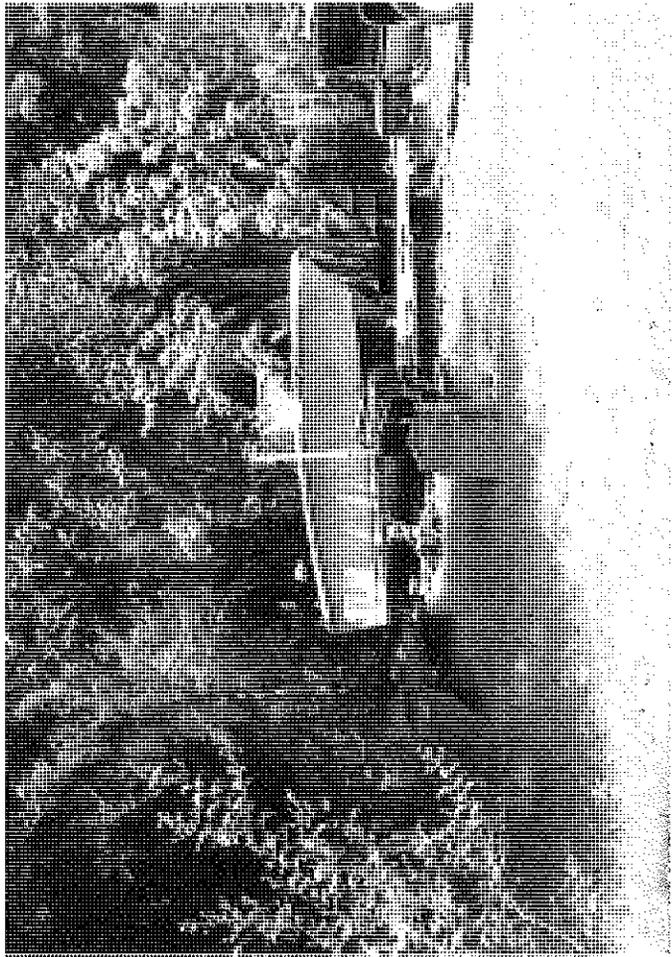
03/05/2012

CURRENT PHOTOS AS OF  
4/04/12



OLDER PROPERTY PHOTOS

OLDER PROPERTY PHOTOS



## Parcel Information

PIDN: 85700278.000  
GISP: 771.12-03-0043.00

### Owner Information

Name: GANN DONNA M AND/OR FRANK C      Percent of Ownership: 100  
Name2:  
Mailing Address: 509 FOREST HILL DR      Physical Address: 2106 HASTINGS RD GAUTIER  
OCEAN SPRINGS MS 39564

### Land Information

Section, Township, Range: 12 7S 7W      Acreage: .28  
Street Name: HASTINGS RD

### Value and Tax Information

Total Assessed Value: 2331      Total Appraised Value: 15540  
Improvement Value: 6280      Land Value: 9260  
Tax Amount: 307      SQ. FT: 0      Year Built: 1968

### Legal Description

Description: COM SWC LOT 7 JAMES MARTIN EST N 104' E 1323.3' TO POB E 80' N 150' W 80' S 150' TO POB DB 1614-233 (43 MAP771.12-03) TRL #30439 1968 10X60

Deed Book / Page: 1614 / 233



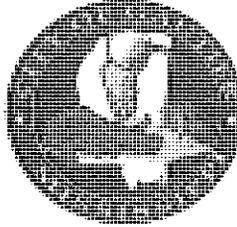
Mayor  
Tommy Fortenberry

City of Gautier  
Gautier, Mississippi

City Manager  
Samantha D. Abell

City Clerk  
Wendy S. McClain

Council  
At Large Mary F. Martin  
Ward 1 Johnny Jones  
Ward 2 HWiley Ray Guillotte  
Ward 3 Gordon J. Gollott  
Ward 4 Scott D. Macfarland  
Ward 5 Adam D. Colledge



3330 Highway 90  
Gautier, MS 39553  
Phone: (228) 497-8000  
Fax: (228) 497-8028  
Email: [gautier@gautier-ms.gov](mailto:gautier@gautier-ms.gov)  
Website: [www.gautier-ms.gov](http://www.gautier-ms.gov)

April 4, 2012

Frank & Donna Gann  
509 Forest Hill Drive  
Ocean Springs, Mississippi 39564

COPY

mailed 4-05-12  
JB

Reference: 2106 Hasting Road Gautier, Mississippi 39553

Mr. & Mrs. Gann,

This letter is to inform you the City of Gautier; Planning and Economic Development Department will recommend to the governing authority the property at 2106 Hasting Road and PIDN 85700278.000 (adjacent lot) Gautier, Mississippi are a menace to the public health, safety, and welfare of the community. Code enforcement will request the mayor and city council review the file on this property during a scheduled April 2012 meeting, and set a public hearing for May 2012 to determine if the property meets the requirements outlined in Mississippi Code Annotated 1972 § Title 21, Chapter 19, Section 11 to begin the necessary clean-up of this property.

Code enforcement is requesting the property be in compliance by April 17, 2012. If you have any questions you can contact the City of Gautier, Code Enforcement Office, Monday – Thursday, 8:00 AM - 5:00 PM at (228) 497-8802/1878 or my cell number (228) 219-7035.

Sincerely,

Joseph Belles  
Code Enforcement Officer

Mayor  
Tommy Fontenberry

City of Gautier  
Gautier, Mississippi

City Manager  
Samantha D. Abell

City Clerk  
Wendy S. McClain

Council  
At Large Mavy F. Martin  
Ward 1 Johnny Jones  
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Ward 5 Adam D. Colledge



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Gautier, MS 39553  
Phone: (228) 497-8000  
Fax: (228) 497-8028  
Email: [gautier@gautier-ms.gov](mailto:gautier@gautier-ms.gov)  
Website: [www.gautier-ms.gov](http://www.gautier-ms.gov)

February 22, 2012

Frank & Donna Gann  
509 Forest Hill Drive  
Ocean Springs, Mississippi 39564

COPY

mailed 2-22-12  
JB

Reference: 2106 Hasting Road Gautier, Mississippi 39553

Mr. & Mrs. Gann,

The property address referenced above remains in violation of the City of Gautier, zoning ordinances after previously sending two letters of violation and discussing the violations with you on the phone. The property was recently checked and the one structure remains in a state of disrepair and does not comply with our zoning codes. The property has remained in violation the last six months and code enforcement would like to have the property in compliance by March 23, 2012 The City of Gautier, Unified Development Ordinance, Article II, Definition of an Accessory Structure States:

Any building or structure on the same lot with, and customarily incidental and secondary to the main structure.

Code Enforcement may refer this case to municipal court or to the City of Gautier, Mayor and Council for abatement consideration as allowed by Mississippi Code 1972, if not corrected by the suspense date. You may contact the City of Gautier, Code Enforcement Office, Monday – Thursday, 8:00 AM - 5:00 PM at (228) 497-8802/1878, if you have any questions. Code enforcement would gratefully appreciate your cooperation in this matter.

Sincerely,

  
Joseph Belles  
Code Enforcement Officer

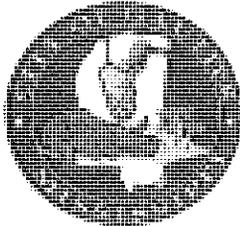
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Website: [www.gautier-ms.gov](http://www.gautier-ms.gov)

November 14, 2011

Frank & Donna Gann  
509 Forest Hill Drive  
Ocean Springs, Mississippi 39564

COPY

mailed 11-14-11  
JB

Reference: 2106 Hasting Road Gautier, Mississippi 39553

Mr. & Mrs. Gann,

On August 25, 2011, a Code Enforcement Officer for the City of Gautier received a complaint regarding a code of ordinance violation at the property address referenced above. I mailed you an initial letter of violation and allowed you thirty days to correct the property code violations; about a month after the initial letter, we discussed the remaining code violations over the telephone. The property was reviewed for compliance on November 10, 2011. There are still accessory buildings remaining on the property without a primary structure and a violation of the City's ordinance. The City of Gautier, Unified Development Ordinance, Article II, Definition of an Accessory Structure States:

Any building or structure on the same lot with, and customarily incidental and secondary to the main structure.

Code enforcement is requesting you remove all accessory buildings/structures by December 9, 2011. You may contact the City of Gautier, Code Enforcement Office, Monday – Thursday, 8:00 AM - 5:00 PM at (228) 497-8802/1878. Code Enforcement will be happy to assist you with any questions that you may have. The City of Gautier, gratefully appreciates your cooperation in this matter.

Sincerely,

Joseph Belles  
Code Enforcement Officer

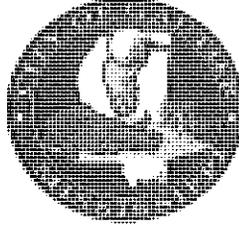
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Website: [www.gautier-ms.gov](http://www.gautier-ms.gov)

August 25, 2011

Frank & Donna Gann  
509 Forest Hill Drive  
Ocean Springs, Mississippi 39564

COPY

mailed 8-25-11  
JB

Reference: 2106 Hasting Road Gautier, Mississippi 39553

Mr. & Mrs. Gann,

On August 24, 2011, a Code Enforcement Officer for the City of Gautier received a complaint regarding several codes of ordinance violations at the property address referenced above. This letter will serve as my initial notice of violation and you have thirty days to correct the minor problems or notify the code enforcement office if you cannot meet this suspense. The property is overgrown, has a boat stored on the lot and has an accessory building erected without a primary structure on the lot. Additionally, the lot is scattered with trash and debris. At this time, we would like to discuss our observations to maintain an amicable appearance with other property owners in this area.

You may contact the City of Gautier, Code Enforcement Office, Monday - Thursday, 8:00 AM - 5:00 PM at (228) 497-8802/1878. I will be happy to assist you with any questions you may have. We gratefully appreciated your cooperation in this matter.

Sincerely,

Joseph Belles  
Code Enforcement Officer