

# 2717 SAN DIEGO



**BUILDING AND STANDARDS BOARD AGENDA ITEM #6 FOR  
WEDNESDAY, JUNE 26, 2013**

**CODE COMPLIANCE DIVISION**

**MEMORANDUM**

June 17, 2013

TO: The Honorable Chairman and Board Members

THROUGH: Kurt Fenstermacher, Deputy Director, Environmental Services Department

FROM: Tom Maguire, Deputy Building Official

SUBJECT: 2717 San Diego Avenue, El Paso, Texas 79930

The following is a brief chronology of the investigation of the referenced location:

- 1) First investigated on May 1, 2013. Recently investigated on June 7, 2013 the structure was found open, and dangerous to unwanted visitors. The structure is in an advanced state of disrepair. This single family dwelling was built in 1930, constructed of wood with brick and stucco finish and a wood framed roof structure. The brick veneer shows signs of fire damage and structural failure. The stucco coating and wood frame structure has been completely removed due to fire damage and causing the walls to become compromised. The wooden floor system and roof system is fire damaged and nonexistent. The plumbing, mechanical and electrical systems are nonexistent. There is trash and debris accumulation inside the abandoned structure.
- 2) A certified condemnation letter was mailed to Mike Herrera.
- 3) Certified notices of the public hearing scheduled for June 26, 2013 were mailed to the owners and all interested parties on June 6, 2013.
- 4) As of June 5, 2013, no taxes are owed.

The owners have been notified of the property maintenance violations at this property. To date there has been no response or corrective action taken, and therefore the Division recommends that it be found:

- 1) That the structure is substandard, and unfit for habitation or use and a hazard to the public health, safety, and welfare; and
- 2) That the structure is not in substantial compliance with the municipal ordinances regulating fire protection, structural integrity, and disposal of refuse; and
- 3) That the structure's certificate of occupancy be revoked; and
- 4) That the structure cannot be rehabilitated; and
- 5) That the structure be demolished within thirty (30) days, and
- 6) That the premises be cleaned and maintained clean of all weeds, trash, and debris within thirty (30) days; and
- 7) That upon failure by the owner or any other interested party to comply with the order of the Building and Standards Commission, the City may take whatever action is necessary to bring the property into compliance and place a lien on the property for the work which will be done by the City.

Code Compliance Division  
May 6, 2013

**NOTICE OF VIOLATION**

MIKE HERRERA  
4410 TROWBRIDGE DR  
EL PASO, TX 79903-1830

Re: 2717 SAN DIEGO AVE  
Blk: 35 MANHATTAN HEIGHTS  
Lot: 42 & 43 (6000 SQ FT)  
Zoned:C-4 SP  
ENHS13-00287  
91 7199 9991 7030 7901 7954

To All Owners, Lienholders, and Mortgagees:

An inspection at the above referenced address has revealed that the structure is in violation of the El Paso Municipal Code, Chapter 18.50, Property Maintenance Code, which states:

**18.50.108.1 General.**

When a structure or equipment is found by the Director to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure or equipment shall be condemned pursuant to the provisions of Chapter 2.38 of this code.

The El Paso Municipal Code Chapter 18.50 International Property Maintenance Code defines unsafe structure as follows:

**18.50.108.1.1 Unsafe Structures.**

An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

**18.50.108.1.2 Unsafe Equipment**

Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers, or other equipment on the premises or within the structure that is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

**18.50.108.1.3 Structure Unfit for Human Occupancy.**

A structure is unfit for human occupancy whenever the Director finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth or contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public

The structure located at **2717 SAN DIEGO, El Paso, Texas, 79903** is in violation of the requirements found in the following sections of the 2009 International Property Maintenance Code as adopted in the El Paso City Code, Chapter 18.50, Property Maintenance Code:

- a. The structure is open and accessible to unauthorized entry. [Sec. 301.3]
- b. The premises are full of weeds, trash, and debris [Sec. 302.1 & Sec. 302.4].
- c. The structure needs to be secured from unwanted entry and ongoing vandalism, and the premises need to be cleaned of all trash and debris within (30) days from receipt of this letter. [Sec. 108.2]
- d. The repairs to the structural elements and/or service systems referred to in the previous sections must be completed within 30 days of your receipt of this letter. If, due to the scope and complexity of the work more time is needed, you must make this request to the Environmental Services Department, Code Compliance Division.

As a result of the aforementioned violations, the following action may be taken:

- a. This case is being submitted to the City Prosecutor's Office for court proceedings. The court will decide if the structure is unsafe and if it should be vacated and secured, or demolished as per Chapter 2.38 of the El Paso Municipal Code.
- b. By authority of Chapter 18.02.103.10.3.3 of the El Paso Municipal Code the electrical service at this property may be disconnected at the request of the Environmental Services Department, Code Compliance Division because of Electrical Code violations.

Many of these corrections will require a permit. Permits for commercial or rental property must be taken out by a bonded and insured contractor who is registered with the City of El Paso.

According to the real property records of El Paso County, you own the real property described in this notice. If you no longer own the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to the Code Compliance Division office, 7969 San Paulo Dr., El Paso, Texas, 79907, no later than the 20th day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice, even if you do not.

Should you have any questions regarding this matter, please contact me at 599-6290.

Kevin D Harrell  
Building Inspector

## NOTICE OF PUBLIC HEARING

### **To all interested parties:**

The owners, mortgagee, lien holders and any others with a legal interest in the property described below are hereby ordered to appear before the Building and Standards Commission, herein after referred to as the "Commission", at the following time and place:

**LOCATION:** City Hall, City Council Chambers, 300 N. Campbell Street, 1<sup>st</sup> Floor, El Paso, Texas 79901

**DATE:** June 26, 2013

**TIME:** 5:30 p.m.

**PROPERTY:** 2717 SAN DIEGO AVENUE, EL PASO, TEXAS also described as Lots 42 and 43, Block "35", MANHATTAN HEIGHTS the City of El Paso, El Paso County, Texas.

The Property has been determined to be substandard based upon violations of the minimum standards of the 2009 Building Codes, adopted and incorporated in the El Paso City Code, Chapter 18, more specifically addressed below.

According to the real property records of El Paso County, and other relevant public records, Mike Herrera, 4410 Trowbridge Drive, El Paso, Texas 79903-1830 are the owners, herein after referred to as the "Owner" of the Property. If you no longer own or have an interest in the Property, you must execute an affidavit stating that you no longer own or have an interest in the Property and stating the name and last known address of the person who acquired the property from you, if applicable. The affidavit must be delivered in person or by certified mail, return receipt requested, to Code Compliance Division of Environmental Services, 7969 San Paulo Drive, El Paso, Texas 79907, no later than the 20<sup>th</sup> day after the date you receive this notice. If you do not execute and deliver the affidavit, it will be presumed that you own or have an interest in the Property, even if you do not.

On or about May 5, 2013 an inspection of the Property was conducted by the Environmental Services Division and the following violations were identified:

- a. All exterior property, accessory structures and premises shall be maintained in a clean, safe and sanitary condition, All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair. [Sec. 302.1, 302.2, 302.3, 302.4, 302.5, 302.6, 302.7, 302.8, 302.9 ]
- b. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare. [Sec. 304.1, 304.1.1 conditions 1,2,3,4,5,6,7,8,9,10,11,12,13, 304.2, 304.3, 304.4, 304.5, 304.6, 304.7, 304.8, 304.9, 304.10, 304.11, 304.12, 304.13, 304.14, 304.15, 304.16, 304.17, 304.18]

- c. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. [Sec. 305.1, 305.2, 305.3, 305.4, 305.5, 305.6]
- d. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage. [Sec. 308.1, 308.2, 308.2.1, 308.2.2, 308.3, 308.3.1, 308.3.2]
- e. The building must comply with the minimum criteria of the provisions for plumbing systems and fixtures. [Sec. 504.1, 504.2, 504.3]
- f. The building must comply with the minimum criteria of the provisions for heating facilities. [Sec. 602.2, 602.3, 602.4, 602.5]
- g. All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner. [Sec. 605.1, 605.2, 605.3]
- h. Means of egress & Emergency escape opening - A safe, continuous and unobstructed path of travel has not been provided from all points in the building or structure to the public way. [Sec. 702.1, 702.2, 702.3, 702.4]
- i. The required fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained. [Sec. 703.1, 703.2]
- j. The structures need to be secured from unwanted entry and ongoing vandalism, and the premises need to be cleaned of all trash and debris within (30) days from receipt of this letter. [Sec. 108.2]

The Owner is entitled to show cause that the Property is safe, does not constitute a dangerous structure and should not be declared a nuisance and ordered abated by presenting relevant evidence and testimony. If the Owner advocates for repair, then they bear the burden of proof to demonstrate the scope of any work that may be required to bring the property into compliance with Chapter 18.50 and the time it will take to reasonably perform the work. The allowable time periods for repair are governed by Texas Local Government Code, Sections 214.001(h), (i), (j) and (k). Any document relied upon to demonstrate that the Property is safe or that it can be repaired must be presented to the Commission at the hearing, including building plans, specifications, drawings, or reports from professionals and any other relevant documentation.

If the Owner fails to comply with the order of the Commission the City may pursue one or more of the following actions:

Perform any and all work necessary to bring the property into compliance with the Commission's order;

Assess civil penalties, provided for in the Commission's order, in an amount not to exceed \$1,000 per day or \$10 per day if the Property has a homestead exemption, that will accrue interest of 10% per year until paid in full;

Appoint a receiver as permitted by state law; and

Any other remedies permitted by state law.

Commission orders may be appealed to the State District Court within 30 days of the Final order. The Commission's authority and procedures in regard to a Dangerous Structure Hearing may be found in Chapter 2.38 of the El Paso City Code and in their duly adopted bylaws. A copy of the ordinance adopting the most current version of Chapter 2.38 is enclosed. The bylaws may be obtained at the Code Compliance Division of Environmental Services, 7969 San Paulo Drive, El Paso, Texas 79907 or by calling (915) 599-6290.

This notice will be recorded in the real property records of El Paso County and will be binding on subsequent grantees, lien holders or other transferees of an interest in the Property. The City Clerk is ordered to provide notice of this hearing to the record owners and all other interested parties, required by law, who are listed following this notice, and file this notice in the real property records of El Paso County.

**FAILURE OF THE OWNER AND/OR LIENHOLDER OR MORTGAGEE TO TAKE THE ORDERED ACTION MAY RESULT IN THE CITY TAKING THE ORDERED ACTION AND FILING A LIEN AGAINST THE PROPERTY.**

The City of El Paso appreciates your cooperation and prompt attention to remedying the nuisances on the Property. Please do not hesitate to contact me should you have any additional questions, comments or concerns relative to this notice.

APPROVED AS TO FORM

APPROVED AS TO CONTENT

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John R. Batoon  
Assistant City Attorney

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Tom Maguire, C.B.O.  
Deputy Building Official

I, RICHARDA DUFFY MOMSEN, City Clerk of the City of El Paso, hereby certify that a true and correct copy of the foregoing Notice regarding the property located at 2717 San Diego Ave. was PUBLISHED in the official City newspaper on the \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Richarda Duffy Momsen

I certify that a true and correct copy of the foregoing Notice regarding the property at 2717 San Diego Ave. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Mike Herrera  
4410 Trowbridge Drive  
El Paso, Texas 79903-1830

Date: \_\_\_\_\_  
Time: \_\_\_\_\_  
Inspector: \_\_\_\_\_

I certify that a true and correct copy of the foregoing Notice regarding the property at 2717 San Diego Ave. was HAND-DELIVERED to:

City of El Paso  
C/O City Clerk  
300 N. Campbell  
El Paso, TX 79901

Date: \_\_\_\_\_  
Time: \_\_\_\_\_  
Inspector: \_\_\_\_\_

I certify that a true and correct copy of the foregoing Notice regarding the property at 2717 San Diego Ave. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Governor of the Ysleta Del Sur Pueblo Indian Tribe  
AKA Tigua Indian Community  
119 S. Old Pueblo Road  
El Paso, Texas 79907

Date: \_\_\_\_\_  
Time: \_\_\_\_\_  
Inspector: \_\_\_\_\_

I certify that a true and correct copy of the foregoing Notice regarding the property at 2717 San Diego Ave. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

El Paso Central Appraisal District  
5801 Trowbridge Ave.  
El Paso, Texas 79925

Date: \_\_\_\_\_  
Time: \_\_\_\_\_  
Inspector: \_\_\_\_\_

I certify that a true and correct copy of the foregoing Notice regarding the property at 2717 San Diego Ave. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

El Paso County Clerk, Probate Dept.  
500 E. San Antonio Avenue, Suite 105  
El Paso, Texas 79901

Date: \_\_\_\_\_  
Time: \_\_\_\_\_  
Inspector: \_\_\_\_\_

I certify that a true and correct copy of the foregoing Notice regarding the property at 2717 San Diego Ave. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Delgado, Acosta, Spencer  
Linebarger, Heard & Perez, LLP  
Attn: Bonnie Cooper  
221 N. Kansas Suite 1400  
El Paso, TX 79901

Date: \_\_\_\_\_  
Time: \_\_\_\_\_  
Inspector: \_\_\_\_\_

I certify that a true and correct copy of the foregoing Notice was POSTED at 2717 San Diego Ave. El Paso, Texas.

Date: \_\_\_\_\_  
Time: \_\_\_\_\_  
Inspector: \_\_\_\_\_



# UNSAFE STRUCTURES REPORT

## CODE COMPLIANCE DIVISION

**DATE OF EXAMINATION:** May 1, 2013

**REP. DISTRICT:** 8

**ADDRESS:** 2717 San Diego Ave.

**ZONED:** R-3H

**LEGAL DESCRIPTION:** Lots 42 & 43, Blk "35" of the MANHATTAN HEIGHTS to the City of El Paso, El Paso County, Texas

**OWNER:** Mike Herrera

**ADDRESS:** 4410 Trowbridge Drive  
El Paso, Texas 79903

**BUILDING USE:** Abandoned single family dwelling

**TYPE OF CONSTRUCTION:** V

**FOOTINGS:** Rubble Stone w/mortar grout.

**CONDITION:** Unable to determine condition of all footings due to subterranean placement. A structural engineer should be hired to evaluate actual condition.

**FOUNDATION WALL:** Rubble stone w/mortar grout and concrete covering.

**CONDITION:** Poor. Fire Damaged, Missing rocks, disintegrating mortar grout, concrete covering is gone in several areas. Showing signs of deterioration due to lack of maintenance.

**FLOOR STRUCTURE:** 2 x 6 tongue and groove wood subfloor on top of 2 x 8 floor joist with some floor linoleum covering, carpet covering, and vinyl tile covering.

**CONDITION:** Poor. The wooden floor is non-existent because of the fire.

**EXTERIOR WALLS:** Brick Veneer with wood frame.

**HEIGHT:** 10'-12' +/-

**THICKNESS:** 8"-10" +/-

**CONDITION:** Poor. Brick veneer has fire damage and shows several structural cracks throughout the building. The fire damage has completely removed the wood frame exposing the brick veneer structure compromising the walls and structural integrity.

**INTERIOR WALLS & CEILINGS:** Wood frame walls & ceilings w/plaster veneer.

**CONDITION:** Poor. Walls & Ceiling are completely gone due to the fire, fire damaged exposed roof & ceiling assembly membranes on the patio. No Interior walls left due to fire damage.

**ROOF STRUCTURE:** Pitched roof with asphalt shingles.

**CONDITION:** Poor. The roof is non-existent and has collapsed due to fire damage. A registered roofing contractor or building contractor must be hired to evaluate the roofing system and submit a report of required corrections to bring the roof system into code compliance.

**DOORS, WINDOWS, ETC.:** Wood framed doors and windows.

**CONDITION:** Poor. The doors and windows are non-existent, deteriorated and missing due to fire damage.

**MEANS OF EGRESS:** Does not meet code requirements.

**CONDITION:** Poor. Windows, doors and window glass will need to be repaired or replaced to make them operational to meet minimum code requirements.

**PLUMBING:** Unknown

**CONDITION:** A licensed plumbing contractor should be hired to evaluate the plumbing system condition.

**ELECTRICAL:** Unknown

**CONDITON:** Unknown. A licensed electrical contractor should be hired to evaluate the electrical system condition.

**MECHANICAL:** Unknown

**CONDITION:** Unknown. A licensed mechanical contractor should be hired to evaluate the mechanical system condition.

**IF CONDEMNED, HOW MANY PERSONS WILL BE AFFECTED:** None

**WARNING POSTED:** Yes

**BARRICADED:** No

**POLICE AID REQD.:** No

**REMARKS:** The open and abandoned single family dwelling was built in 1930. The structure was found open, and dangerous to unwanted vistiors. The structure is in an advanced state of disrepair. The brick veneer shows signs of structural failure. The ceiling system is in disrepair throughout the structure. There is trash, weeds and debris throughout the property. The division recommends that the structure be demolished within thirty (30) days. That the property be cleaned of all weeds, trash and debris within thirty (30) days.

Kevin D Harrell  
Building Inspector



Account Status

EVAR  
 ACT8006 v1.235 06/05/2013 18:16: ACTEP

<b>Account Information</b> Account No. <input type="text" value="M056-999-0350-7300"/> Roll Code <input type="text" value="REAL PROPERTY"/> Certified Owner <input type="text" value="HERRERA MIKE"/> Parcel Address <input type="text" value="2717"/> <input type="text" value="SAN DIEGO AVE"/> Amount Due as of <input type="text" value="06/05/2013"/> CAD No. <input type="text" value="327468"/>		<b>Tax Units</b> Tax Unit Description List of Tax Units <input type="text" value="1"/> <input type="text" value="3"/> <input type="text" value="6"/> <input type="text" value="7"/> <input type="text" value="8"/> <input type="text" value="8001"/> <input type="button" value="AG INCLUDED"/> <input type="button" value="Remove Fees"/> <input type="checkbox"/> Countywide	<b>Tax Unit, Yr, Rec. Type</b> Tax Unit <input type="text"/> Year <input type="text"/> Rec. Type <input type="text"/> <input type="button" value="Multi Select"/>
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Amount Due/Paid Information												
Year	Gross Value	H	O	V	D	Base Levy	Paid Levy	Write-Off	Remaining Levy	Fees	Refund	Amount Due
2012	\$54,604					\$1,424.47	\$1,424.47	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2011	\$45,000					\$1,153.08	\$1,153.08	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2010	\$45,000					\$1,143.71	\$1,143.71	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2009	\$45,000					\$1,121.10	\$1,121.10	\$0.00	\$0.00	\$78.48	\$0.00	\$0.00
2008	\$45,000					\$1,124.46	\$1,124.46	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2007	\$69,561					\$1,752.33	\$1,752.33	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2006	\$59,647					\$1,726.30	\$1,726.30	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2005	\$44,744					\$1,397.09	\$1,397.09	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2004	\$43,536					\$1,352.33	\$1,352.33	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Last Payment Date						<b>Totals</b>	<b>\$20,683.79</b>	<b>\$20,683.79</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$1,958.51</b>	<b>\$0.00</b>
Last Payer						<input type="button" value="Alert"/>						