

BUILDING AND STANDARDS BOARD AGENDA ITEM # ____ FOR
WEDNESDAY, January 25, 2006

DEVELOPMENT SERVICES
BUILDING PERMITS AND INSPECTIONS

MEMORANDUM
January 12, 2006

TO: The Honorable Chairman and Board Members

THROUGH: R. Alan Shubert, P. E., C.B.O. – Development Services Director

FROM: Bill Stern, C.B.O., Residential Inspector Supervisor

SUBJECT: 9222 Roseway Dr...

On August 31, 2005 a hearing was held before the Building and Standards Commission at City Council Chambers and it was found that the structure located on said property is substandard, unfit for human habitation or use and a hazard to the public health, safety, and welfare, and the structure is not in substantial compliance with the Municipal Ordinances regulating fire protection, structural integrity, and disposal of refuse. The Building and Standards Commission ordered the owner to demolished the building and clean the premises of all weeds, trash and debris within (30) days. The owner was ordered to appear before Building and Standards Commission on January 25, 2006 to determine if the Building and Standards Commission Order of August 31, 2005 has been complied with and to determine penalties if the Building and Standards Commission Order has not been complied with.

To date the Building and Standards Commission Order has not been complied with.

The Department recommends that the Building and Standards Commission make the following findings:

- 1) That the owner of said property Daniel Navarrette, 9222 Roseway Dr., El Paso, Texas 79907 was notified of the requirements of Section 18.50 and their need to comply with these requirements; and
- 2) That after notification, the owner failed to demolished the building, and clean the property of all weeds, trash and debris within 30 days; and
- 3) That the property which is subject to the Order is not the owner's homestead; and
- 4) That the Building and Standards Commission can assess a civil penalty against the owner in the amount not to exceed \$1,000 a day for each violation; and
- 5) That the owner has failed to comply with the Order, each day from October 1, 2005 through January 25, 2006 a total of 117 days.

The Department recommends that the Building and Standards Commission order:

- 1) That the owner has not complied with the Building and Standards Commission Order of August 31, 2005; and
- 2) That the Building and Standards Commission Order the Director of Development Services to demolish~~ed~~ the building and clean the premises of all weeds, trash and debris and to assess the cost of the work as a lien against the property; and
- 3) That any lien assessed is due and payable within (30) days of the date the City of El Paso completes the work; and
- 4) That the owner be assessed the following civil penalties: A total of \$25.00 a day for 117 days during which time the Building and Standards Commission Order of August 31, 2005 was not complied with for a total of \$2,925.00; and
- 5) That the City Clerk file a certified copy of the Order with the District Clerk of the County of El Paso.

NOTICE OF PUBLIC HEARING

To All Interested Parties:

You are hereby notified that at 5:30 p.m. on the 25th day of January, 2006 in the Council Chambers of City Hall, #2 Civic Center Plaza, El Paso, Texas, the Building and Standards Commission of El Paso will hold a public hearing on the question of whether the Building located on the property at **9222 Roseway Drive**, in El Paso, Texas, which property is more particularly described as:

Tract: The North ½ of Tract 104, North Valumbrosa Subdivision No. 2, an Addition to the City of El Paso, El Paso County, Texas, according to the map thereof on File in Book 14, Page 39, Plat Records of El Paso County, Texas

and which is subject to that certain Building and Standards Commission Order dated August 31, 2005 has been brought into compliance with said Order, and to determine penalties.

According to the real property records of the County of El Paso, Texas, Daniel Navarrette, 9222 Roseway Drive, El Paso, Texas 79907, is listed as the Owner of the real property described herein.

The Owner of said property is hereby ordered to appear before the Building and Standards Commission and any mortgagees, lien holders, and other persons having an interest in said property are entitled to appear before the commission at said date, hour, and place.

If the Owner fails, neglects or refuses to comply with the order of the commission the City may pursue one, or more of the following actions:

- I) the City will perform any and all work needed to bring the property into compliance with this order, at its own expense, but for and on account of the Owner, of said property, the cost of which shall be assessed as a lien against the property and;
- II) assess a civil penalty against the property Owner for failure to repair, remove or demolish said Building in an amount not to exceed \$1,000.00 a day for each violation, or \$10.00 a day if the Owner shows that the property is the Owner's lawful homestead; and
- III) appoint a receiver as permitted by state law; and
- IV) any other remedies permitted by state law.

Any civil penalty or assessment imposed will accrue interest at a rate of ten (10) percent a year from the date of the assessment until paid in full;

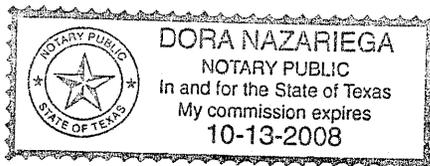
I, RICHARDA DUFFY MOMSEN, City Clerk of the City of El Paso, hereby certify that a true and correct copy of the foregoing Notice regarding the property located at 9222 Roseway Drive, was filed with the County Clerk's Office, the official public records of real property for El Paso County.


Richarda Duffy Momsen

Executed this 5th day of January, 2006 on behalf of the City of El Paso, Texas, by Richarda Duffy Momsen in her capacity as City Clerk.

STATE OF TEXAS
COUNTY OF EL PASO

Subscribed and sworn to before me, this 9th day of January, 2006.




Notary Public

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 9222 Roseway Drive, was PUBLISHED in the official City newspaper on the 7th day of January, 2006.


Richarda Duffy Momsen

I certify that a true and correct copy of the foregoing Notice dated regarding the property at 9222 Roseway Drive, was (MAILED CERTIFIED-RETURN RECEIPT REQUESTED) to:

Daniel Navarrette
9222 Roseway Drive
El Paso, Texas 79907

Date: _____
Time: _____

Inspector

I certify that a true and correct copy of the foregoing Notice dated regarding the property at 9222 Roseway Drive, was (MAILED CERTIFIED-RETURN RECEIPT REQUESTED) to:

Guadalupe Navarrette
9222 Roseway Drive
El Paso, Texas 79907

Date: _____
Time: _____

Inspector

I certify that a true and correct copy of the foregoing Notice dated regarding the property at 9222 Roseway Drive, was (MAILED CERTIFIED-RETURN RECEIPT REQUESTED) to:

Efren Ordonez Remodeling
7717 Caliche Dr.
El Paso, Texas 79915

Date: _____
Time: _____

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 9222 Roseway Drive, was (HAND-DELIVERED) to:

City of El Paso
C/O City Clerk
#2 Civic Center Plaza
El Paso, TX 79901

Date: _____
Time: _____

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 9222 Roseway Drive, 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 9222 Roseway Drive, 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 _____ was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

El Paso County Probate Court
500 E. San Antonio Avenue, Suite 703
El Paso, Texas 79901

Date: _____
Time: _____

Inspector

I certify that a true and correct copy of the foregoing Notice was POSTED at 9222 Roseway Drive, El Paso, Texas.

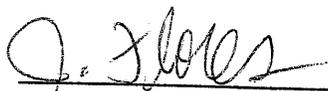
Date: _____
Time: _____

Inspector

The City Clerk is ordered to provide notice of this hearing to the record Owner and all other persons having an interest in the property as provided by law.

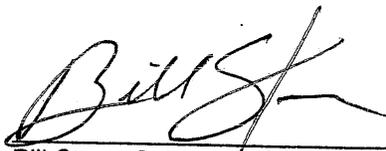
According to the real property records of El Paso County, you own or have an interest in the real property described in this notice. If you no longer own or have an interest in the property, you must execute an affidavit stating that you no longer own or have an interest in the property and stating the name and last known address of the person who acquired the property or interest from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to the Building Standards Enforcement Division of the Building Permits and Inspections, 5th floor, City Hall, 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.

APPROVED AS TO FORM:



Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:



Bill Stern, C.B.O.
Residential Inspector Supervisor
Building Permits and Inspections Department

1/10/2006-1/10/2006

Firmbook Report

7105 8873 0193 6100 2377
7105 8873 0193 6100 2421

CMN	TRACKING	NAME	ADDRESS	
7105 8873 0193 6100 2377	9222 Roseway - PH	Daniel Navarrette	9222 Roseway Drive	El Paso TX 79907
7105 8873 0193 6100 2384	9222 Roseway - PH	Guadalupe Navarrete	9222 Roseway Drive	El Paso TX 79907
7105 8873 0193 6100 2391	9222 Roseway - PH	Efren Ordonez Remodeling	7717 Caliche Dr.	El Paso TX 79915
7105 8873 0193 6100 2407	9222 Roseway - PH	Governor of the Ysleta Del Sur Pueblo Indian Tribe	AKA Tigua Indian Community 119 S. Old Pueblo Road	El Paso TX 79907
7105 8873 0193 6100 2414	9222 Roseway - PH	El Paso Central Appraisal District	5801 Trowbridge Ave.	El Paso TX 79925
7105 8873 0193 6100 2421	9222 Roseway - PH	El Paso County Probate Court	500 E. San Antonio Ave., Suite 703	El Paso TX 79901

ORDER OF THE BUILDING AND STANDARDS
COMMISSION OF THE CITY OF EL PASO

WHEREAS, the Director for Building Permits and Inspections of the City of El Paso has conducted an investigation and has reported to the Building and Standards Commission in writing that he is of the opinion that the structure located on the property at **9222 Roseway Drive**, in El Paso, Texas, which property is more particularly described as follows:

Tract: The North ½ of Tract 104, North Valumbrosa Subdivision No. 2, an Addition to the City of El Paso, El Paso County, Texas, according to the map thereof on File in Book 14, Page 39, Plat Records of El Paso County, Texas.

is dilapidated, substandard, and unfit for human habitation; is a hazard to public health, safety, and welfare; does not meet the minimum standards for continued use and occupancy contained in 18.50 of the El Paso City Code; and

WHEREAS, Daniel Navarrette, 9222 Roseway Drive, El Paso, Texas, 79912, record Owner, and all mortgagees and lienholders were duly notified according to law to appear at a public hearing before the Building and Standards Commission at 5:30 p.m. on June 29th, 2005; which was then postponed for 60 days. On August 31st, 2005 the hearing was held and no one appeared.

**IT IS THEREFORE, ORDERED ADJUDGED AND DECREED BY THE
BUILDING AND STANDARDS COMMISSION OF THE CITY OF EL PASO:**

1. That Building and Standards Commission having heard the evidence, and being persuaded by a preponderance of same, makes the following findings:
 - A. That the structure located on said property is an urban nuisance.
 - B. That in order to be made safe, all of the aforementioned violations must be corrected.
 - C. That the structure located on said property is currently unsafe, substandard, unfit for human habitation or use, and therefore a hazard to the public health, safety, and welfare; and
 - D. That the structure is not in substantial compliance with municipal ordinances regulating structural or service systems integrity and disposal of refuse; and
 - E. The structure's certificate of occupancy is hereby revoked; and
 - F. Because of the Owner(s) failure to supply any drawings, plans, or reports to indicate otherwise, the structure cannot be repaired.

2. That the Building and Standards Commission hereby orders the Owner(s) to comply with the following requirements:
 - A. That the building be demolished within thirty (30) days, and remain secured;
 - B. That the premises be cleaned of all weeds, trash and debris within thirty (30) days; and
 - C. The Owner(s) are advised that in order to obtain a new certificate of occupancy, the entire building and its service systems must be brought into compliance with the current codes.
3. That upon failure of the Owner(s) to comply with this Order, any mortgagees, lienholders, and/or other persons having an interest in the property have an additional ten (10) days to demolish the structure and to clear the property of all weeds, trash and debris.
4. That upon failure of the Owner(s) to comply with this Order, the City of El Paso through its Director for Building Permits and Inspections may request a Hearing before the Building and Standards Commission to advise them of the owner(s) failure to comply. At such hearing, the Building and Standards Commission shall be asked to make the following findings and orders:
 - A. To find the Owner(s) in violation of this Order of the Building and Standards Commission;
 - B. To find that the mortgagees, lienholders and other interested parties have not performed any work to bring the structure and premises into compliance with this Order;
 - C. To Order the City of El Paso to perform the work required to secure the property from unwanted entry and clear the premises of weeds, trash and debris and to assess the costs of the work as a lien against the property;
 - D. To find that any lien assessed is due and payable within thirty (30) days of the date the City of El Paso completes the work;
 - E. To Order that any assessment or civil penalties imposed will accrue interest at a rate of ten percent (10%) per annum accruing from the date of assessment until paid in full;
 - F. To assess a civil penalty for failure to comply with this Order as allowed by Texas Local Government Code §54.017.
5. **RIGHT TO APPEAL:** *The decision of the Building and Standards Commission is final (see discussion of rehearing, below). An appeal may be filed by verified petition in State District Court, setting forth that the decision of the Commission is illegal, in whole or in part, and specifying the grounds of the illegality. Petition for appeal must be filed by the owner(s) or interested party within thirty (30) days of receipt of notice of the Order of the Commission.*

Appeals in District Court are limited to hearings under the substantial evidence rule.

A rehearing by the Building and Standards Commission may only be granted in the following circumstances:

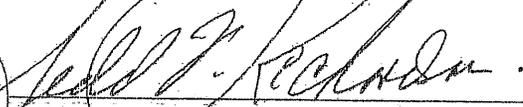
- A. *Proper request is made within twenty (20) days of receipt of notice of the Order of the Commission*
- B. *Rehearing fees of five hundred and forty dollars (\$540.00) are furnished with the rehearing request. The Building and Standards Commission may waive these fees in cases of financial hardship based on written affirmation from the applicant.*

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the City Clerk shall cause copies of this Order to be served on the record owner(s) and all other persons having interest in the property as provided by law.

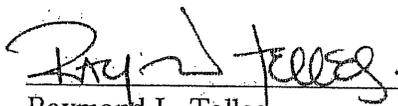
According to the real property records of El Paso County, you own the property described in this notice. If you no longer own the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office no later than the twentieth (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.

Signed this 31 day of August, 2005.

BUILDING AND STANDARDS COMMISSION


Chairman, Panel A

APPROVED AS TO FORM:


Raymond L. Telles
Assistant City Attorney

APPROVED AS TO CONTENT:


Bill Stern, C.B.O.
Residential Inspector Supervisor
Building Permits & Inspections
Building Standard Enforcement Division

I, RICHARDA DUFFY MOMSEN, City Clerk of the City of El Paso, hereby certify that a true and correct copy of the foregoing Order dated August 31st, 2005 regarding the property located at 9222 Roseway Drive, was filed with the County Clerk's Office, the official public records of real property for El Paso County.

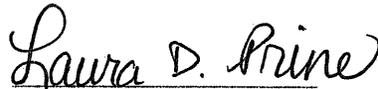

Richarda Duffy Momsen

Executed this 28th day of September, 2005 on behalf of the City of El Paso, Texas, by Richarda Duffy Momsen in her capacity as City Clerk.

STATE OF TEXAS
COUNTY OF EL PASO

Subscribed and sworn to before me, this 28th day of September, 2005.




Notary Public

I, RICHARDA DUFFY MOMSEN, City Clerk of the City of El Paso, hereby certify that a true and correct copy of the foregoing Order dated August 31st, 2005 regarding the property located at 9222 Roseway Drive, was PUBLISHED in the official City newspaper on the 28th day of September, 2005.


Richarda Duffy Momsen

I certify that a true and correct copy of the foregoing Order dated August 31st, 2005 regarding the property at 9222 Roseway Drive, was (MAILED CERTIFIED-RETURN RECEIPT REQUESTED) to:

Daniel Navarrette
9222 Roseway Drive
El Paso, Texas 79907

Date: _____
Time: _____

Inspector

I certify that a true and correct copy of the foregoing Order dated August 31st, 2005 regarding the property at 9222 Roseway Drive, was (MAILED CERTIFIED-RETURN RECEIPT REQUESTED) to:

Guadalupe Navarrette
9222 Roseway Drive
El Paso, Texas 79907

Date: _____
Time: _____

Inspector

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7717 Caliche Dr.
El Paso, Texas 79915

Date: _____
Time: _____

Inspector

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City of El Paso
C/O City Clerk
#2 Civic Center Plaza
El Paso, TX 79901

Date: _____

Time: _____

Inspector

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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 Order dated August 31st, 2005 regarding the property at 9222 Roseway Drive, was (MAILED CERTIFIED-RETURN RECEIPT REQUESTED) to:

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

Date: _____

Time: _____

Inspector