403 DOLAN ST.

BUILDING AND STANDARDS BOARD AGENDA ITEM # 6 FOR WEDNESDAY, January 26, 2011

CODE COMPLIANCE DIVISION

MEMORANDUM
October 25, 2010

TO: The Honorable Chairman and Board Members

THROUGH: Kurt Fenstermacher, Deputy Director, Code Compliance Division

FROM: Bill Stern., Deputy Building Official

SUBJECT: 403 Dolan Street, El Paso, Texas, 79905

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

1) First investigated on July 12, 2010. The single family dwelling was built in 1969. The structure was found abandoned and dilapidated. The structure was also found with extensive exterior structural damage. The roof system shows significant signs of failure and all wooden surfaces are rotted and deteriorated. There is trash, weeds and debris throughout the property.
2) A certified condemnation letter was mailed to Fernando and Josefina Nieto on July 20, 2010.
3) Certified notices of the public hearing scheduled for January 26, 2011, were mailed to the owners and all interested parties on December 14, 2010.
4) As of September 2, 2010, no taxes is 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 structures are substandard, and unfit for habitation or use and a hazard to the public health, safety, and welfare; and
2) That the structures are not in substantial compliance with the municipal ordinances regulating fire protection, structural integrity, and disposal of refuse; and
3) That the structures certificate of occupancy be revoked; and
4) That the structures cannot be rehabilitated; and
5) That the structures 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
July 14, 2010

NOTICE OF VIOLATION

Fernando & Josefina Nieto
337 Encino Dr.
El Paso, Texas 79905-4523

Re: 403 Dolan St.
Blk: 2 Pasadena #2
Lot: 1/2 of 2
Zoned: R-5
BSC10-00582
Mail Receipt #
7009 1410 0001 7187 1430

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:

> **18.50.106.1 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:

> **18.50.106.1.1 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.

> **18.50.106.1.2 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.

18.50.106.1.3 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 **403 Dolan Street, El Paso, Texas, 79905,** is in violation of the requirements found in the following sections of the 2003 International Property Maintenance Code as adopted in the El Paso City Code, Chapter 18.50, Property Maintenance Code:

a. The walls have not been maintained in a safe manner free of holes and cracks. [Sec. 304.6]

b. The roof structure has not been maintained free of defects that may cause leaks. [Sec. 304.7]

c. The means of egress is/are inadequate and do not meet minimum code requirements. [Sec. 702.4]

d. The plumbing system is inadequate and does not meet minimum code requirements. [Sec. 504.1]

e. The electrical system is inadequate and does not meet minimum code requirements. [Sec. 604.3]

f. The HVAC system is inadequate and does not meet minimum code requirements. [Sec. 603.1]

g. The premises are full of weeds, trash, and debris [Sec. 302.1 & Sec. 302.4].

h. 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]

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 Building and Standards Commission at a hearing scheduled by this department

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

a. This case is being submitted to the City Building and Standards Commission for unsafe structures proceedings. The City Building and Standards Commission 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 18.02.103.9.3 of the El Paso Municipal Code the electrical service at this property may be disconnected at the request of the Building Permits and Inspections Department 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 599-3692.

Sam Mendoza
Building Inspector

SM/nms

NOTICE OF PUBLIC HEARING

To All Interested Parties:

You are hereby notified that at 5:30 p.m. on the **26th** day of **January, 2011** in the Council Chambers of City Hall, #2 Civic Center Plaza, El Paso, Texas, the Building and Standards Commission of El Paso (the "**Commission**") will hold a public hearing on the question of whether the building located on the property at **403 Dolan St.**, in El Paso, Texas, which property is more particularly described as:

> **Legal Description: The Southerly 1/2 of Lot 2, Block 2, MAP of PASADENA NO.2, an addition to the City of El Paso, El Paso County, Texas according to the plat thereof on file in Book 15, Page 47, Plat Records, El Paso County, Texas**

is unsafe and dangerous, because of the following violations:

a. The floors have not been maintained in a safe manner. [Sec. 305.4]

b. The walls have not been maintained in a safe manner free of holes and cracks. [Sec. 304.6]

c. The roof structure has not been maintained free of defects that may cause leaks. [Sec. 304.7]

d. The means of egress is/are inadequate and do not meet minimum code requirements.[Sec. 702.4]

e. The plumbing system is inadequate and does not meet minimum code requirements. [Sec. 504.1]

f. The electrical system is inadequate and does not meet minimum code requirements. [Sec. 604.3]

g. The HVAC system is inadequate and does not meet minimum code requirements. [Sec. 603.1]

h. The structure is open and accessible to unauthorized entry. [Sec. 301.3]

i. The premises shall be maintained in a clean, safe and sanitary condition free of weeds, trash, and debris [Sec. 302.1 & Sec. 302.4].

j. The structure needs to be secured from unwanted entry and ongoing vandalism, and the premises need to be cleaned of trash and debris within (30) days from receipt of this letter. [Sec. 108.2]

According to the real property records of the County of El Paso, Texas, Fernando Nieto and wife, Josefina Nieto, 504 Dolan St., El Paso, Texas, 79905, ("the **Owners**") are listed as the owners of the real property described herein.

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 Environmental Services Department, 7969 San Paulo Drive, 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.

The Owners of said property are 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 to show cause why said building should not be declared a nuisance and ordered to be abated. The Owners, lien holders, mortgagees, or any other person having an interest in the property are hereby required to submit at the hearing proof of the scope of any work that may be required to bring the building into compliance with Title 18, as mandated by Section 18.50 of the Municipal Code, and to specify the time it will take to reasonably perform the work.

At the hearing, the Owners, lien holders, mortgagees, or any other person having an interest in the property must present to the Commission any evidence showing that the structure or part thereof is safe.

All documents such as building plans, specifications, drawings, reports from design professionals and any other required documents must be presented to the Commission at this hearing.

The time periods, which govern the completion of work ordered by the commission, are outlined in Chapter 2, Subsection 2.38.080 of the Municipal Code of the City of El Paso, and pursuant to State law.

If the Owners fail, neglect or refuse to comply with the order of the Commission the City may pursue one, or more of the following actions:

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 Owners, of said property, the cost of which shall be assessed as a lien against the property and;

I) assess a civil penalty against the property Owners 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 Owners show that the property is the Owner's lawful homestead; and

II) appoint a receiver as permitted by state law; and

III) 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;

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

APPROVED AS TO FORM:

_____
Cynthia Osborn
Assistant City Attorney

APPROVED AS TO CONTENT:

_____
Bill Stern, C.B.O.
Deputy Building Official
Code Compliance Division

I, RICHARDA DUFFY MOMSEN, City Clerk of the City of El Paso, hereby certify that a true and correct copy of the foregoing Notice of Public Hearing regarding the property located at 403 Dolan St. was filed with the County Clerk's Office, the official public records of real property for El Paso County.

Richarda Duffy Momsen

Executed this ____ day of _____, 2010 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 ____ day of _____, 2010.

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 403 Dolan St. was PUBLISHED in the official City newspaper on the ____day of_____, 2010.

Richarda Duffy Momsen

I certify that a true and correct copy of the foregoing Notice regarding the property at 403 Dolan St. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Fernando Nieto and Josefina Nieto
504 Dolan Street
El Paso, Texas 79905

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 403 Dolan St. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

First American Title Co.
5939 Gateway West
El paso, Texas 79925

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 403 Dolan St. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Fernando & Josefina Nieto
337 Encino Dr.
El Paso, Texas 79905

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 403 Dolan St. 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 403 Dolan St. 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 403 Dolan St. 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 403 Dolan St. 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 regarding the property at 403 Dolan St. 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 403 Dolan St. El Paso, Texas.

Date:
Time:

Inspector

UNSAFE STRUCTURES REPORT

BUILDING PERMITS AND INSPECTIONS

DATE OF EXAMINATION: August 5, 2010 **REP. DISTRICT:** 8

ADDRESS: 403 Dolan **ZONED:** R-5

LEGAL DESCRIPTION: 2 Pasadena #2, S 5 1/2 of 2

OWNER: Fernando and Josefina Nieto **ADDRESS:** 403 Dolan St.
El Paso, Texas 79905

BUILDING USE: Abandoned single Family Dwelling

TYPE OF CONSTRUCTION: V

FOOTINGS: Concrete
CONDITION: Fair. Unable to determine condition of footing due to subterranean placement. A structural engineer should be hired to evaluate actual condition.

FOUNDATION WALL: N /A
CONDITION: N / A

FLOOR STRUCTURE: Concrete on Slab
CONDITION: Unable to verify

EXTERIOR WALLS: Adobe & Wood Frame

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

CONDITION: Poor. A structural engineer should be hired to evaluate the structural elements of the building and submit a report on the corrections required to make the building safe.

INTERIOR WALLS & CEILINGS: N/A
CONDITION: N/A

ROOF STRUCTURE: Low gable roof
CONDITION: Poor, The roof structure assembly members rafters, ceiling, joists and deck have sustained significant amount of 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 doors on wood frame. Windows on wood frame
CONDITION: Poor. Shall need to repair doors and windows, to meet egress requirements.

MEANS OF EGRESS: Does not meet minimum code requirements.
CONDITION: Poor. Windows and doors must be replaced to meet minimum requirements.

PLUMBING: Inadequate or nonexistent

ELECTRICAL: Inadequate or nonexistent

MECHANICAL: Inadequate or nonexistent

IF CONDEMNED, HOW MANY PERSONS WILL BE AFFECTED: None, vacant home

WARNING POSTED: Yes **BARRICADED:** No **POLICE AID REQD.:** No

REMARKS: First investigated on July 12, 2010. The single family dwelling was built in 1969. The structure was fund abandoned. The structure was also found with extensive exterior damage. The roof, air conditioner and exterior of all the structure show signs of deterioration due to lack of property maintenance. There is trash, weeds and debris throughout the property. The department recommends that the structure be demolished within 30 days and the property be cleaned of all weeds, trash and debris within 30 days.

Sam Mendoza
Building Inspector