809-811 MYRTLE

BUILDING AND STANDARDS BOARD AGENDA ITEM # 8 FOR WEDNESDAY, MARCH 30, 2011

CODE COMPLIANCE DIVISION

MEMORANDUM
March 4, 2011

TO: The Honorable Chairman and Board Members

THROUGH: Kurt Fenstermacher, Deputy Director, Environmental Services Department

FROM: Bill Stern, Deputy Building Official

SUBJECT: 809-811 Myrtle Avenue, El Paso, Texas, 79901

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

1) Recently investigated on December 7, 2010. This property was condemned in December 2006, to be secured and cleaned until rehabilitated. The commercial buildings were built in 1930, according to Central Appraisal records, constructed of brick walls with stucco coating and a wood framed roof structure. The structures were found open, abandoned, in an advanced state of disrepair and being used as harborage by vagrants. The exterior of the structures is showing signs of rapid deterioration due to lack of maintenance and exposure to the elements. The plaster coating has fallen in several areas exposing the underlying brick to the elements. There are structural deficiencies throughout. The roof and ceiling assembly and roof coverings have not been maintained showing signs of rapid deterioration and collapse. The plumbing, electrical and mechanical systems are none existent. Since the 2006 condemnation the property has continuously been entered and only secured and cleaned when the owner is contacted by a Code Compliance inspector.
2) A certified condemnation letter was mailed to Harann Investments, Inc. on December 13, 2010.
3) Certified notices of the public hearing scheduled for March 30, 2011, were mailed to the owners and all interested parties on March 8, 2011.
4) As of March 4, 2011, $2,496.53 in taxes is owed.

The owners have been notified of the property maintenance violations at this property to date there has been no 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 remain 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
December 13, 2010

NOTICE OF VIOLATION

Harann Investments Inc.
P. O. Box 13100
El Paso, Texas 79913

Re: 809 Myrtle Ave.
Blk: 222 Campbell
Lot: 5 & W ½ of 6
Zoned: C-4 SP
BSC10-01038
7009 2820 0004 3728 4981

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 **809 Myrtle Ave.,** 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 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 are full 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 all trash and debris within (30) days from receipt of this letter. [Sec. 108.2]

k. 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 599-3691.

Nellie Avalos
Building Inspector

MA/nms

NOTICE OF PUBLIC HEARING

To All Interested Parties:

You are hereby notified that at 5:30 p.m. on the **30th** day of **March, 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 buildings located on the property at **809-811 Myrtle Avenue**, in El Paso, Texas, which property is more particularly described as:

> **Legal Description: Lot 5, the West 1/2 of Lot 6, Block 222, CAMPBELL ADDITION, an addition to the City of El Paso, El Paso County, Texas, according to the map in the Plat Records in Volume 2, Page 68, of El Paso, El Paso County, Texas.**

are 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, Harann Investments, Inc., 700 South Santa Fe Street, El Paso, Texas, 79901 and Firstlight Federal Credit Union, Lienholder, F/K/A Fort Bliss Federal Credit Union, P.O. Box

24901, El Paso, Texas, 79914- 9001 ("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:

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 Owners, 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 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 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;

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 certify that a true and correct copy of the foregoing Notice regarding the property at 809-811 Myrtle Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Harann Investments, Inc.
700 South Santa Fe Street
El Paso, Texas 79901

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 809-811 Myrtle Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Firstlight Federal Credit Union
f/k/a Fort Bliss federal Credit Union
P. O. Box 24901
El Paso, Texas 79914-9001

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 809-811 Myrtle Avenue 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 809-811 Myrtle Avenue 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 809-811 Myrtle Avenue 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 809-811 Myrtle Avenue 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 809-811 Myrtle Avenue 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 809-811 Myrtle Avenue El Paso, Texas.

Date:
Time:

Inspector

UNSAFE STRUCTURES REPORT

BUILDING PERMITS AND INSPECTIONS

DATE OF EXAMINATION: December 7, 2010 **REP. DISTRICT:** 8

ADDRESS: 809-811 Myrtle Avenue **ZONED:** C-4

LEGAL DESCRIPTION: Block 222, Campbell Addition, Lots 5 & W ½ of 6

OWNER: Harann Investments, Inc. **ADDRESS:** 700 S. Santa Fe
El Paso, TX 79901

BUILDING USE: Abandoned commercial building and accessory structures

TYPE OF CONSTRUCTION: Type V, masonry and brick

FOOTINGS: Concrete
CONDITION: Unable to determine condition, footings are underground and must be evaluated by an engineer to determine actual condition.

FOUNDATION WALL: Concrete
CONDITION: Poor. Showing signs of deterioration due to lack of maintenance.

FLOOR STRUCTURE: 2 x 8 wood covered with plywood
CONDITION: Poor. The floor systems are badly deteriorated due to lack of maintenance. A structural engineer should be hired to evaluate the actual condition.

EXTERIOR WALLS: Brick covered by stucco

HEIGHT: 8'-20' +/- **THICKNESS:** 12" +/-

CONDITION: Poor. Several structural deficiencies were found. Some stucco veneer has fallen exposing the brick areas. A structural engineer should be hired to evaluate structural elements of the buildings.

INTERIOR WALLS & CEILINGS: 2 x 4 covered with sheetrock and plaster.
CONDITION: Poor. Most walls contain structural cracks and the ceiling has collapsed allowing natural light to seep through.

ROOF STRUCTURE: Wood framing covered with roll roofing composition.
CONDITION: Poor. Natural exterior light seeping through; exposed roof joists are deteriorated and decaying due to lack of maintenance and exposure to the elements. A licensed roofing contractor in the state of Texas should be hired to evaluate the roofing system.

DOORS, WINDOWS, ETC.: Wood frame and metal frame windows, wood doors.
CONDITION: Poor. Most glass needs to be replaced. Doors need to be replaced.

MEANS OF EGRESS: No exit stairs at rear second floor door.
CONDITION: Poor.

PLUMBING: Poor. A licensed plumbing contractor must be hired to evaluate the entire plumbing system and submit a report to this department on the corrective action required to bring the system up to minimum code compliance.

ELECTRICAL: Poor. A licensed electrical contractor must be hired to evaluate the entire electrical system and submit a report to this department on the corrective action required to bring the system up to minimum code compliance.

MECHANICAL: Poor. A licensed mechanical contractor must be hired to evaluate the entire mechanical system and submit a report to this department on the corrective action required to bring the system up to minimum code compliance.

IF CONDEMNED, HOW MANY PERSONS WILL BE AFFECTED: None

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

REMARKS: The structures were condemned in December 2006 to be secured and cleaned until rehabilitated; the structures continue to become open and abandoned and entered by unwanted persons. The property is not maintained clean and the structures continue to become more deteriorated and unsafe posing a hazard to the surrounding properties.

Nellie Avalos
Building Inspector