

# 138 Palla



BUILDING AND STANDARDS BOARD AGENDA ITEM # 6 FOR  
WEDNESDAY, APRIL 25, 2007

DEVELOPMENT SERVICES  
BUILDING PERMITS AND INSPECTIONS

MEMORANDUM

April 18, 2007

TO: The Honorable Chairman and Board Members

THROUGH: Larry Nichols, C.B.O. – The Director for Building Permits and Inspections

FROM: Bill Stern, C.B.O., Chief Building Inspector

SUBJECT: 138 Palla Place, El Paso, Texas 79907

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

On February 28, 2007, 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 Ordinance regulating fire protection, structural integrity, and disposal of refuse. The Building and Standards Commission ordered the owner to secure the primary building and accessory structure and clean the premises of all weeds, trash and debris within (30) thirty days. The owner was ordered to appear before the Building and Standards Commission on April 25, 2007 to determine if the Building and Standards Commission Order of February 28, 2007 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 of February 28, 2007 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 Rutilio and Ysidra Lopez, 138 Palla Place, El Paso, Texas 79907, was notified of the requirements of Section 18.52.040 and their need to comply with these requirements; and
- 2) That after notification, the owner failed to secure the primary building and accessory structure and clean the property of all weeds, trash and debris; and
- 3) That all legal documents for rightful ownership of property be presented on April 25, 2007; and
- 4) That the property which is subject to the Order is not the owner's homestead.

Since the owner has failed to comply with the Building and Standards Commission order of February 28, 2007, the department recommends that the Building and Standards Commission order:

- 1) That the owner be required to demolish the primary building and secure the accessory structure within (30) thirty days; and
- 2) That the owner be required to clean the property of all weeds, trash and debris within (30) thirty days; and
- 3) 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.

JOHN COOK  
MAYOR

JOYCE WILSON  
CITY MANAGER

R. ALAN SHUBERT, PE, CBO  
DEVELOPMENT SERVICES DEPARTMENT, DIRECTOR



CITY COUNCIL  
ANN MORGAN LILLY, DISTRICT 1  
SUSANNAH M. BYRD, DISTRICT 2  
J. ALEXANDRO LOZANO, DISTRICT 3  
MELINA CASTRO, DISTRICT 4  
PRESI ORTEGA, JR., DISTRICT 5  
EDDIE HOLGUIN JR., DISTRICT 6  
STEVE ORTEGA, DISTRICT 7  
BETO O'ROURKE, DISTRICT 8

## DEVELOPMENT SERVICES DEPARTMENT

BUILDING STANDARDS ENFORCEMENT  
January 16, 2007

Rutilio & Ysidra Lopez  
138 Palla Pl.  
El Paso, Texas 79907-5522

Re: 138 Palla  
Blk: North Valumbrosa  
Lot: 27  
Zoned: R4  
COD06-17358  
Certified Mail Receipt #  
7105 8873 0193 6301 8093

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 International 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.

## 138 Palla Pl.

### 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 **138 Palla Pl.** has 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 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. In addition to the above mentioned violations, the auto repair garage in the rear of property may be used only as an incidental use to the primary permitted use of the property which is – single family dwelling. Furthermore, the garage does not meet minimum requirements for safety; for fire protection which is addressed in the building code of the City of El Paso. The garage in the rear of the property may not be utilized for the purposes of auto repair or painting.

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.

**138 Palla PI.**

- 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 Housing Compliance Office of the Building Permits and Inspections, 5<sup>th</sup> 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, even if you do not.

Should you have any questions regarding this matter, please contact me at 541-4800.

FOR THE DIRECTOR FOR BUILDING PERMITS AND INSPECTIONS:

Zuleika Davila  
Building Inspector

ZCD/nms

## NOTICE OF PUBLIC HEARING

To All Interested Parties:

You are hereby notified that at 5:30 p.m. on the **28th** day of **February, 2007** 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 **138 Palla Place**, in El Paso, Texas, which property is more particularly described as:

**LEGAL DESCRIPTION: Lot 27, NORTH VALUMBROSA SUBDIVISION, to the City of El Paso, Texas, El Paso County, Texas, according to the plat thereof on file in Book 1, Page 2, Plat Records of said county; also known as 138 Palla Place, El Paso, Texas**

is unsafe and dangerous.

According to the real property records of the County of El Paso, Texas, **Rutilio and Ysidra Lopez** (the "**Owners**"), **138 Palla Place, El Paso, Texas 79907**, 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 Building Permits and Inspections, 5<sup>th</sup> floor, City Hall, no later than the 20<sup>th</sup> 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 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 to show cause why said buildings should not be declared a nuisance and ordered to be abated. The Owner, 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 Ownes, lien holders, mortgagees, or any other person having an interest in the property must present to the Commission any evidence showing that the structures 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 fails, 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 show 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:

APPROVED AS TO CONTENT:

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Roberta Cross  
Assistant City Attorney

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

**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 **138 Palla Place**, in El Paso, Texas, which property is more particularly described as follows:

**LEGAL DESCRIPTION: Lot 27, NORTH VALUMBROSA SUBDIVISION, to the City of El Paso, Texas, El Paso County, Texas, according to the plat thereof on file in Book 1, Page 2, Plat Records of said county; also known as 138 Palla Place, El Paso, Texas**

is dilapidated, substandard, and unfit for human habitation; are 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, Rutilio and Ysidra Lopez, 138 Palla Place, El Paso, Texas 79915**, record Owners, 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 February 28, 2007; and

**WHEREAS**, Enrique Lopez appeared; and

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

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

- A. That the primary building and all accessory buildings be secured and maintained secured within thirty (30) days; and
  - B. That the premises be cleaned of all weeds, trash, and debris within thirty (30) days.
  - C. That all legal documents for the rightful ownership of property be presented by the next meeting on April 25, 2007.
  - D. That a hearing be scheduled for April 25, 2007 to determine if the property is in compliance with the Building and Standards Commission order of February 28, 2007.
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 clear the property of all weeds, trash, and debris, and secure the structure on the property.**
  4. **That upon failure of the Owner(s), mortgagees, lienholders, and/or any other person having an interest in the property to comply with this Order, the City of El Paso, through its Director for Building Permits and Inspections, shall:**
    - A. Secure the primary and accessory structures; and
    - B. Clean the property of all weeds, trash and debris; and
    - C. Assess the cost of the work noted above as a lien against the property which will become due and payable within thirty (30) days of the date the City of El Paso completes the work; and
    - D. Provide for any other remedies permitted by State law.
  5. **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:**
    - A. Determine the amount and duration of civil penalties the City of El Paso may recover for failure to comply with this Order as allowed by Texas Local Government Code Chapter 54; and
    - B. Provide any other remedies permitted by State law.

**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 twenty (20) 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; and*
- 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 or have an interest in the 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 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 (20<sup>th</sup>) 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.

**ADOPTED on this 28<sup>th</sup> day of February 2007.**

BUILDING AND STANDARDS COMMISSION

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Robert S. Ayoub, Chairman, Panel B

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

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Roberta Cross  
Assistant City Attorney

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Bill Stern, C.B.O., Chief Building Inspector  
Development Services Department  
Building Permits & Inspection Division

## NOTICE OF PUBLIC HEARING

To All Interested Parties:

You are hereby notified that at 5:30 p.m. on the **25th** day of **April, 2007** 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 **138 Palla Place**, in El Paso, Texas, which property is more particularly described as:

**Legal Description: Lot 27, NORTH VALUMBROSA SUBDIVISION, to the City of El Paso, Texas, El Paso, County, Texas, according to the plat thereof on file in Book 1, Page 2, Plat Records of said county; also known as 138 Palla Place, El Paso, Texas**

and which is subject to that certain Building and Standards Commission Order dated **February 28, 2007** has been brought into compliance with said Order, and if not to determine penalties.

According to the real property records of the County of El Paso, Texas, **Rutilio and Ysidra Lopez, 138 Palla Place, El Paso, Texas 79915**, are listed as the Owners of the real property described herein.

The Owners of said property are hereby ordered to appear before the Building and Standards Commission and any mortgages, 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 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 expenses, 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.

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, 5<sup>th</sup> floor, City Hall, no later than the 20<sup>th</sup> 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:

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Roberta Cross  
Assistant City Attorney

Department

\_\_\_\_\_  
Bill Stern, C.B.O.  
Chief Building Inspector  
Building Permits and Inspections

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 138 Palla Place was PUBLISHED in the official City newspaper on the \_\_\_\_day of\_\_\_\_\_, 2007.

Richarda Duffy Momsen

I certify that a true and correct copy of the foregoing Notice regarding the property at 138 Palla Place was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Rutilio and Ysidra Lopez  
138 Palla Place  
El Paso, Texas 79907

Date:  
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 138 Palla Place was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Rosa C Lopez  
133 Palla Place  
El Paso, Texas 79907

Date:  
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 138 Palla Place was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Rutilio C Lopez  
111 Quesito Street  
Clint, Texas 79836

Date:  
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 138 Palla Place was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Enrique Lopez  
138 Palla Place  
El Paso, Texas 79907

Date:  
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 138 Palla Place was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Enrique Lopez  
10740 Regina  
El Paso, Texas 79927

Date:  
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 138 Palla Place 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 138 Palla Place 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 138 Palla Place 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 138 Palla Place 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 138 Palla Place was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Delgado, Acosta, Spencer  
Linebarger & Perez, LLP  
221 N. Kansas, Suite 1400  
El Paso, Texas 79901

Date:  
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice was POSTED at 138 Palla Place, El Paso, Texas.

Date:  
Time:

Inspector