

809-811 MYRTLE



BUILDING AND STANDARDS BOARD AGENDA ITEM # 6 FOR
WEDNESDAY, MAY 23, 2012

CODE COMPLIANCE DIVISION

MEMORANDUM

May 5, 2012

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) First investigated on April 2005; recently investigated on March 5, 2012. This property was condemned in December 2006 to be maintained secure and clean; condemned again under present owner in June 2011 to be demolished and cleaned. According to Central Appraisal records the commercial buildings were built in 1930; 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 by unwanted persons 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 March 5, 2012.
- 3) Certified notices of the public hearing scheduled for May 23, 2012, were mailed to the owners and all interested parties on May 10, 2012.
- 4) As of May 7, 2012, \$2,846.93 in taxes is owed from 2009.

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
March 5, 2012

NOTICE OF VIOLATION

Harann Investments Inc.
P. O. Box 13100
El Paso, Texas 79913-3100

Re: 809 Myrtle Ave.
Blk: 222 Campbell
Lot: 5 & W ½ of 6
Zoned:C-4 SP
ENHS12-00169
7108 2133 3932 6880 8468

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 **809 Myrtle Ave., El Paso, Texas, 79901** 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 floors have not been maintained in a safe manner. [Sec. 304.1.1.9]
- b. The walls have not been maintained in a safe manner free of holes and cracks. [Sec. 304.6 & Sec.305.2]
- 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 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.

Nellie Avalos
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: El Paso City Hall, 2 Civic Center Plaza, Council Chamber, 2nd Floor El Paso, Texas 79901

DATE: May 23, 2012

TIME: 5:30 p.m.

PROPERTY: 809-811 Myrtle Avenue, El Paso, Texas also described as Lot 5 and West ½ of Lot 6, Block 222, CAMPBELL ADDITION, an addition to the City of /El Paso, El Paso County, Texas, according to the map and plat thereof on file in Volume 2, Page 68, Plat Records of El Paso County, Texas, herein after referred to as the "Property."

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, Section 18.50.020, more specifically addressed below.

According to the real property records of El Paso County, and other relevant public records, Harann Investments, Inc., Attn.: Harry Garber, President, P.O. Box 13100, El Paso, TX 79913, is the owner of the Property, herein after referred to as the "Owner". 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 Building Standards Enforcement Division, 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 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 March 5, 2012 an inspection of the Property was conducted by the Environmental Services Division and the following violations were identified:

- a. The floors have not been maintained in a safe manner. (Code Sec. 304.1.1.9 of the 2009 International Property Maintenance Code (IPMC))
- b. The walls have not been maintained in a safe manner free of holes and cracks. (Sec. 304.6 & Sec.305.2 of the 2009 IPMC)
- c. The roof structure has not been maintained free of defects that may cause leaks. (Sec. 304.7 of the 2009 IPMC)
- d. The means of egress is/are inadequate and do not meet minimum code requirements. (Sec. 702.4 of the 2009 IPMC)

- e. The plumbing system is inadequate and does not meet minimum code requirements. (Sec. 504.1 of the 2009 IPMC)
- f. The electrical system is inadequate and does not meet minimum code requirements. (Sec. 604.3 of the 2009 IPMC)
- g. The HVAC system is inadequate and does not meet minimum code requirements. (Sec. 603.1 of the 2009 IPMC)
- h. The structure is open and accessible to unauthorized entry. (Sec. 301.3 of the 2009 IPMC)
- i. The premises are full of weeds, trash, and debris (Sec. 302.1 & Sec. 302.4 of the 2009 IPMC)
- j. The structure needs to be secured from unwanted entry and ongoing vandalism. (Sec. 108.2 of the 2009 IPMC)

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 he bears 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 Commission's order 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.

An order of the Commission may be appealed to the State District Court within 30 days of your receipt of the 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 Building Standards Enforcement Division, 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
CONTENT

APPROVED AS TO

Lesley J. Nicholes
Assistant City Attorney

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



UNSAFE STRUCTURES REPORT

CODE COMPLIANCE DIVISION

DATE OF EXAMINATION: May 5, 2012

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: P.O. Box 13100
El Paso, TX 79903

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 previously condemned in December 2006 to be secured and cleaned until rehabilitated; and in June 2011 to be demolished and cleaned. 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