

2905 HAMILTON



BUILDING AND STANDARDS BOARD AGENDA ITEM # 6 FOR
WEDNESDAY, JUNE 29, 2011

CODE COMPLIANCE DIVISION

MEMORANDUM

June 15, 2011

TO: The Honorable Chairman and Board Members

THROUGH: Kurt Fenstermacher, Deputy Director, Environmental Services Department

FROM: Bill Stern., Deputy Building Official

SUBJECT: 2905 Hamilton Avenue, El Paso, Texas 79930

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

- 1) Initial investigation of the multifamily dwelling built in 1955 was conducted on July 27, 2009. The property was condemned in December 16, 2009 to be secured and cleaned and to be maintained secure and clean. Attempts by the heirs to maintain the structure secure and clean have been unsuccessful. An investigation by Code Compliance and the El Paso Police department on May 25, 2011, revealed several people squatting on the premises of the condemned structure. Upon investigation the apartments were found in a state of disrepair. Numerous alterations were done without the required permits or inspections. There are numerous code violations that create an unsafe and dangerous situation for the tenants. The ceiling has collapsed in one of the units; the egress has been compromised due to the windows being blocked with bolted wrought iron guards. There are many exposed and spliced electrical wires. The plumbing and mechanical systems are inadequate. The interior walls contain several holes and penetrations posing a hazard with fire blocking and tenant separation. The structure continues to deteriorate and the repeated entry by unwanted persons poses a threat to the surrounding community and the public welfare.
- 2) A certified condemnation letter was mailed to Amancia Rodriguez.
- 3) Certified notices of the public hearing scheduled for June 29, 2011 were mailed to the owners and all interested parties on June 16, 2011.
- 4) As of June 13, 2011, no taxes are 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 Department recommends that it be found:

- 1) That the structure is substandard, and unfit for habitation or use and a hazard to the public health, safety, and welfare; and
- 2) That the structure is 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 structure cannot be rehabilitated; and
- 5) That the structure 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.

DEVELOPMENT SERVICES DEPARTMENT
August 5, 2009

NOTICE OF VIOLATION

Amancia Rodriguez
2905 Hamilton Ave.
El Paso, Texas 79930-3653

Re: 2905 Hamilton Ave.
Blk: 3 Grandview
Lot: 12 & 13
Zoned: C2
Case Number BSC09-00594
Mail Receipt #: 7008 1300 0001 0407 6531

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 **2905 Hamilton, El Paso, Texas, 79930** 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 premises are full of weeds, trash, and debris [Sec. 302.1 & Sec. 302.4].

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 Housing Compliance Office 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, even if you do not.

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

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 **29th** day of **June, 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 **2905 Hamilton Ave.**, in El Paso, Texas, which property is more particularly described as:

Legal Description: Lots 12 and 13, Block 3, GRANDVIEW ADDITON to the City of El Paso, El Paso County, Texas, according to the map thereof on file in the office of the County Clerk of El Paso County , Texas, also being known as 2905 Hamilton.

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 needs 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, Amancia Rodriguez, 2905 Hamilton Ave., El Paso, Texas 79930-3656, Paula Rodriguez, 2905 Hamilton Ave., El Paso, Texas, 79930-3656, Jose Luis Rodriguez, 2905 Hamilton Ave., El Paso, Texas, 79930, Linda Ozuna, 2905 Hamilton Ave., El Paso, Texas, 79930-3656 and James Ozuna, 2905 Hamilton Ave., El Paso, Texas, 79930-3656 (“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:

APPROVED AS TO CONTENT:

Robert Almonte II
Assistant City Attorney

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 2905 Hamilton Ave. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Amancia Rodriguez
2905 Hamilton Ave.
El Paso, Texas 79930

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 2905 Hamilton Ave. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Amancia Levi
2905 Hamilton
El Paso, Texas 79930

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 2905 Hamilton Ave. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Paula Rodriguez
2715 Jefferson
El Paso, Texas 79930

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 2905 Hamilton Ave. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Paula Rodriguez
2905 Hamilton
El Paso, Texas 79930

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 2905 Hamilton Ave. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Jose Luis Rodriguez
2905 Hamilton
El Paso, Texas 79930

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 2905 Hamilton Ave. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Lina Ozuna
2905 Hamilton
El Paso, Texas 79930

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 2905 Hamilton Ave. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

James Ozuna
2905 Hamilton
El Paso, Texas 79930

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 2905 Hamilton Ave. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Linbarger, Goggan, Blair & Sampson
215 N. Stanton Street, 2nd Floor
El Paso, Texas 79901

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 2905 Hamilton Ave. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Linda Ozuna
1228 Morgan Marie
El Paso, Texas, 79936

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 2905 Hamilton Ave. 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 2905 Hamilton Ave. 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 2905 Hamilton Ave. 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 2905 Hamilton Ave. 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 2905 Hamilton Ave. 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 2905 Hamilton Ave. El Paso, Texas.

Date:
Time:

Inspector

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

WHEREAS, the Director for Development Services 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 **2905 Hamilton Avenue** in El Paso, Texas, which property is more particularly described as follows:

Legal Description: Lots 12 and 13, Block 3, GRANDVIEW ADDITION to the City of El Paso, El Paso County, Texas, according to the map thereof on file in the Office of the County Clerk of El Paso County, Texas, also being known as 2905 Hamilton.

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

WHEREAS Amancia Rodriguez, 2905 Hamilton Ave., El Paso, Texas, 79930 (the “**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 December 16, 2009; and

WHEREAS, Paula Rodriguez, Linda Ozuna and James Ozuna appeared.

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 structure located on said property is an urban nuisance; and
 - B. 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
 - C. That the structure is not in substantial compliance with municipal ordinances regulating structural or service systems integrity and disposal of refuse; and
 - D. That the structure can 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 remain revoked and the Owners to comply with the following requirements:
 - A. That the main structure be vacated and remain vacated within thirty (30)

days; and

- B. That the structure be secured within thirty (30) days and maintained secured until rehabilitated; and
 - C. That the premises be cleaned and maintained clean of all weeds, trash, and debris within thirty (30) days.
3. That upon failure of the Owners 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.
4. That upon failure of the Owners, 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. Vacate and secure and maintain the structure; 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 Owners 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.
6. ***When this Order has been filed in the deed records of the county in which the property that is the subject of this Order is located, execution of this Order shall not be affected by a sale or other transfer of such property. Any person or entity acquiring an interest in such property after this Order has been so filed is subject to the requirements of this Order.***
7. ***REHEARING: a person affected by this order may request a rehearing by the same Building and Standards Commission panel that issued this***

Order. Only ONE hearing may be requested. The Building and Standards Commission may grant a rehearing only under the following circumstances:

- A. Proper request is made within twenty (20) days of receipt of notice of the Order of the Commission; and*
- B. No appeal of this Order has been taken as allowed pursuant to paragraph 8, below; and*
- C. Rehearing fees of five hundred and forty dollars (\$540.00) are furnished with the rehearing request. The rehearing request shall state the basis for requesting the rehearing. The Building and Standards Commission may waive these fees in cases of financial hardship based on written affirmation from the applicant.*

- 8. RIGHT TO APPEAL:** *The decision of the Building and Standards Commission is final. 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 in this matter. Appeals in District Court are limited to hearings under the substantial evidence rule.*

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 me 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.

ADOPTED on this 16th day of December, 2009.

BUILDING AND STANDARDS COMMISSION

Roman Bustillos Chairman, Panel B

APPROVED AS TO FORM:

Cynthia Osborn
Assistant City Attorney

APPROVED AS TO CONTENT:

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



UNSAFE STRUCTURES REPORT

CODE COMPLIANCE DIVISION

DATE OF EXAMINATION: May 25, 2011

REP. DISTRICT: 2

ADDRESS: 2905 Hamilton Avenue

ZONED: C-2

LEGAL DESCRIPTION: Lots 12 and 13, Block 3, GRANDVIEW ADDITION to the City of El Paso, El Paso County, Texas, according to the map thereof on file in the Office of the County Clerk of El Paso County, Texas, also being known as 2905 Hamilton.

OWNER: Amancia Rodriguez

ADDRESS: 2905 Hamilton Avenue
El Paso, Texas 79930

BUILDING USE: Two story multifamily dwellings

TYPE OF CONSTRUCTION: V, Wood frame, brick and CMU covered w/stucco coating

FOOTINGS: Concrete

CONDITION: 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:

1ST FLOOR STRUCTURE: Concrete slab on grade covered with linoleum covering.

CONDITION: A structural engineer or registered contractor must be hired to evaluate the flooring system.

2ND FLOOR STRUCTURE: Wood framing covered with hardwood and/or tile covering.

CONDITION: A structural engineer or registered contractor must be hired to evaluate the flooring system.

EXTERIOR WALLS: CMU, brick and stucco masonry, also some wood paneling.

HEIGHT: 25' +/-

THICKNESS: 8" - 10" +/-

CONDITION: Fair. Due to lack of maintenance and exposure to the elements, some repairs and painting is recommended. A structural engineer should be hired to evaluate structural elements of the building and submit a report on the corrections required to make the building safe.

INTERIOR WALLS & CEILINGS: Wood frame, sheetrock w/plaster

CONDITION: Poor. Several holes and cracks on the walls and ceiling due to lack of maintenance will need to be repaired.

ROOF STRUCTURE: Gable roof, wood framing, built up with rolled roof composition

CONDITION: Poor. 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.: Metal doors, wood/metal frame windows w/bolted wrought iron guards.

CONDITION: Bad. Will need to repair or replace all doors and windows, so they are operational and meet egress requirements.

MEANS OF EGRESS: Does not meet code requirements.

CONDITION: Poor. Windows are blocked, the stairwells are missing guardrails and the steps are uneven and unfinished. Will need replacing or repairs done so they are operational and meet minimum egress requirements.

PLUMBING: A licensed plumber should be hired to bring system up to code.

ELECTRICAL: A licensed electrician should be hired to bring system up to code.

MECHANICAL: A licensed mechanical contractor should be hired to bring system up to code.

IF CONDEMNED, HOW MANY PERSONS WILL BE AFFECTED:

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

REMARKS: This two story multifamily dwelling built in 1955 was condemned on December 16, 2009 to be secured and cleaned. The structure is showing signs of advanced deterioration and unsafe conditions. The structure should be demolished within thirty (30) days and the property cleaned of all weeds, trash and debris.

Nellie Avalos

Building Inspector