

2717 SAN DIEGO



**BUILDING AND STANDARDS BOARD AGENDA ITEM #5 FOR
WEDNESDAY, JULY 31, 2013**

**ENVIRONMENTAL SERVICES DEPARTMENT
CODE COMPLIANCE DIVISION**

MEMORANDUM

July 25, 2013

TO: The Honorable Chairman and Board Members

THROUGH: Karl Rimkus, Interim Division Manager, Code Compliance Department

FROM: Tom Maguire, C.B.O., Deputy Building Official

SUBJECT: 2717 San Diego Avenue, El Paso, Texas, 79903-3210

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

On June 26, 2013, a hearing was held before the Building and Standards Commission at City Council Chambers and it was found that the structures located on said property are substandard, unfit for habitation or use, a hazard to the public health, safety and welfare, and that the structures are not in substantial compliance with the Municipal Ordinances regulating fire protection, structural integrity and disposal of refuse. The Building and Standards Commission ordered the owner to secure the property within thirty (30) days and maintain secure thereafter. That the owner appear before this Panel and provide information regarding the status of any and all investigation and matters with the El Paso Fire Department and District Attorney's Office in order for the Commission to address this matter fully; and to determine if the Building and Standards Commission order dated June 26, 2013 has been complied with and if not to determine penalties. That the certificates of occupancy be revoked. Certified notices of the public hearing scheduled for July 31, 2013, were mailed to the owners and all interested parties on July 10, 2013.

The owner has been notified of the property violations at this property and has received a copy of the Building and Standards Commission order dated June 26, 2013 of the need to comply with the orders stated above. To date, some corrective action has been taken, and therefore the Department recommends that it be found:

- 1) That the structures be demolished within thirty (30) days; and
- 2) That the premises be cleaned and maintained clean of all weeds, trash, and debris within thirty (30) days and maintained clean thereafter; 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.

Code Compliance Division
May 6, 2013

NOTICE OF VIOLATION

MIKE HERRERA
4410 TROWBRIDGE DR
EL PASO, TX 79903-1830

Re: 2717 SAN DIEGO AVE
Blk: 35 MANHATTAN HEIGHTS
Lot: 42 & 43 (6000 SQ FT)
Zoned: C-4 SP
ENHS13-00287
91 7199 9991 7030 7901 7954

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 **2717 SAN DIEGO, El Paso, Texas, 79903** 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 structure is open and accessible to unauthorized entry. [Sec. 301.3]
- b. The premises are full of weeds, trash, and debris [Sec. 302.1 & Sec. 302.4].
- c. 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]
- d. 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.

Kevin D Harrell
Building Inspector

ORDER No. ENHS13-00287
OF THE CITY OF EL PASO BUILDING AND
STANDARDS COMMISSION

An order of the Building and Standards Commission (the “Commission”) abatement of the substandard and dangerous structures located at 2717 San Diego Avenue; Legal Description: Lots 42 and 43, Block “35”, MANHATTAN HEIGHTS in the City of El Paso in El Paso County, Texas.

WHEREAS, the Commission finds that proper notice has been provided as required by Chapter 2.38 of the El Paso City Code to the identified interested party identified as Mike Herrera, 4410 Trowbridge Drive, El Paso, TX 79903-1830, herein after referred to as the “Owner”; and

WHEREAS, owner Mike Herrera did appear; and

WHEREAS, based on the evidence presented, the Commission finds the Property is in violation of 18.50 of the El Paso City Code; and

WHEREAS, the structures constitute to be a dangerous structure and, as such, is a nuisance condition that constitutes a hazard to the health, safety and welfare of the citizens and is likely to endanger persons and property; and

WHEREAS, the Commission was notified and informed that the property located at 2717 San Diego Ave., El Paso, TX 79903-1830 was previously burnt down and was under investigation for arson and the matter was pending with the El Paso Fire Department and potentially the District Attorney’s Office; and

WHEREAS, the Commission takes notice of and incorporates all evidence presented at the hearing and incorporates the same into the body of this Order for all purposes;

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

1. The Owner is hereby ordered:
 - a. That the structures certificate of occupancy be revoked; and
 - b. That the property be secured within thirty (30) days; and
 - c. That this matter be brought back before the Commission within thirty (30) days; and
 - d. Information regarding the status of any and all investigations and matters with the El Paso Fire Department and District Attorney’s Office be provided to the Commission so that the matter may be fully addressed at the next hearing date.

- e. All work performed at the Property must be done in compliance with all applicable sections of the El Paso City Code and state and federal regulations and statutes.
2. Alternatively, if the Owner fails to comply with this Order, the City of El Paso, through the Code Compliance Division of the Environmental Services Department, may:
 - a. Seek reimbursement from the Owners for the cost of complying with this order and that the expense if not satisfied, shall result in a lien being placed against the Property.

3. When this Order has been filed in the real property records of El Paso County it is binding on subsequent grantees, lienholders, or other transferees of an interest in the Property.

4. REHEARING: a person affected by this order may request a rehearing by the same 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 6, 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.*

5. RIGHT TO APPEAL: The decision of the Building and Standards Commission is the final administrative remedy. An appeal may be filed by verified petition in State District Court, Petition for appeal must be within thirty (30) days of receipt of this Order. All appeals to the district court will be heard de novo.

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 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 26th day of June, 2013.

BUILDING AND STANDARDS COMMISSION

Andrew Haggerty, Chairman, Panel B

APPROVED AS TO FORM:

Wendi N. Vineyard
Assistant City Attorney

APPROVED AS TO CONTENT:

Tom Maguire
C.B.O. Deputy Building Official

I, RICHARDA DUFFY MOMSEN, City Clerk of the City of El Paso, hereby certify that a true and correct copy of the foregoing ORDER of the Building and Standards Commission dated May 29, 2013, regarding the property located at 2717 San Diego Ave., El Paso, Texas, was PUBLISHED in the official City newspaper on the ____ day of _____, 2013.

Richarda Duffy Momsen

I certify that a true and correct copy of the foregoing ORDER of the Building and Standards Commission dated May 29, 2013, regarding the property at 2717 San Diego Ave., El Paso, Texas, was [MAILED CERTIFIED-RETURN RECEIPT REQUESTED] to:

Mike Herrera
4410 Trowbridge Drive
El Paso, TX 79903-1830

Date: _____
Time: _____
Inspector: _____

I certify that a true and correct copy of the foregoing ORDER of the Building and Standards Commission dated May 29, 2013, regarding the property at 2717 San Diego Ave., El Paso, Texas, was [HAND-DELIVERED] to:

City of El Paso
C/O City Clerk
300 N. Campbell
El Paso, TX 79901

Date: _____
Time: _____
Inspector: _____

I certify that a true and correct copy of the foregoing ORDER of the Building and Standards Commission dated May 29, 2013, regarding the property at 2717 San Diego Ave., El Paso, Texas, 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 ORDER of the Building and Standards Commission dated May 29, 2013, regarding the property at 2717 San Diego Ave., El Paso, Texas, was [MAILED CERTIFIED-RETURN RECEIPT REQUESTED] to:

Governor of the Ysleta Del Sur Pueblo Indian Tribe
AKA The Tigua Indian Community
119 S. Old Pueblo Road
El Paso, TX 79907

Date: _____
Time: _____
Inspector: _____

I certify that a true and correct copy of the foregoing ORDER of the Building and Standards Commission dated May 29, 2013, regarding the property at 2717 San Diego Ave., El Paso, Texas, was [MAILED CERTIFIED-RETURN RECEIPT REQUESTED] to:

El Paso County Clerk, Probate Dept.
500 E. San Antonio Avenue, Suite 105
El Paso, Texas 79901

Date: _____
Time: _____
Inspector: _____

I certify that a true and correct copy of the foregoing ORDER of the Building and Standards Commission dated May 29, 2013, regarding the property at 2717 San Diego Ave., El Paso, Texas, 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 ORDER of the Building and Standards Commission dated May 29, 2013 was POSTED at 2717 San Diego Ave., El Paso, Texas.

Date: _____
Time: _____
Inspector: _____

NOTICE OF PUBLIC HEARING

To All Interested Parties:

You are hereby notified that at 5:30 p.m. on the **31st** day of **July, 2013** in the Council Chambers of City Hall, 300 N. Campbell St, 1st Floor, El Paso, Texas, 79901 the Building and Standards Commission of El Paso (the "**Commission**") will hold a public hearing on the question of whether the structures located on the property at **2717 San Diego Avenue**, in El Paso, Texas, which property is more particularly described as:

Legal Description: Lots 42 and 43, Block 35, MANHATTAN HEIGHTS ADDITION, an addition to the City of El Paso, El Paso County, Texas.

and which is subject to that certain Building and Standards Commission Order dated **June 26, 2013** has been brought into compliance with said Order, and if not to determine penalties or if further action is required.

According to the real property records of the County of El Paso, Texas, Mike Herrera, 4410 Trowbridge Drive, El Paso, Texas 79903-1830, is listed as the owner of the real property described herein.

The Owner 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.

If the Owner fails, neglects and refuses to comply with the order of the commission. Therefore, 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 Owner 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, and other relevant records, 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 including the name and last known address of the person who acquired the property or interest from you, if applicable. The affidavit must be delivered in person or by certified mail, return receipt requested, to Code Compliance Division of Environmental Services, 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.

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

John R. Batoon
Assistant City Attorney

Tom Maguire, C.B.O.
Deputy Building Official
Development Services Department

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 2717 San Diego Ave. was PUBLISHED in the official City newspaper on the _____ day of _____, 2013.

Richarda Duffy Momsen

I certify that a true and correct copy of the foregoing Notice regarding the property at 2717 San Diego Ave. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Mike Herrera
4410 Trowbridge Drive
El Paso, TX 79903-1830

Date:
Time:
Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 2717 San Diego Ave. was HAND-DELIVERED to:

City of El Paso
C/O City Clerk
300 N. Campbell
El Paso, TX 79901

Date:
Time:
Inspector

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Governor of the Ysleta Del Sur Pueblo Indian Tribe
AKA Tigua Indian Community
119 S. Old Pueblo Road
El Paso, Texas 79907

Date:
Time:
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5801 Trowbridge Ave.
El Paso, Texas 79925

Date:
Time:
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El Paso, Texas 79901

Date:

Time:

Inspector

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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 2717 San Diego Ave., El Paso, Texas.

Date:

Time:

Inspector



UNSAFE STRUCTURES REPORT

CODE COMPLIANCE DIVISION

DATE OF EXAMINATION: May 1, 2013

REP. DISTRICT: 8

ADDRESS: 2717 San Diego Ave.

ZONED: R-3H

LEGAL DESCRIPTION: Lots 42 & 43, Blk "35" of the MANHATTAN HEIGHTS to the City of El Paso, El Paso County, Texas

OWNER: Mike Herrera

ADDRESS: 4410 Trowbridge Drive
El Paso, Texas 79903

BUILDING USE: Abandoned single family dwelling

TYPE OF CONSTRUCTION: V

FOOTINGS: Rubble Stone w/mortar grout.

CONDITION: Unable to determine condition of all footings due to subterranean placement. A structural engineer should be hired to evaluate actual condition.

FOUNDATION WALL: Rubble stone w/mortar grout and concrete covering.

CONDITION: Poor. Fire Damaged, Missing rocks, disintegrating mortar grout, concrete covering is gone in several areas. Showing signs of deterioration due to lack of maintenance.

FLOOR STRUCTURE: 2 x 6 tongue and groove wood subfloor on top of 2 x 8 floor joist with some floor linoleum covering, carpet covering, and vinyl tile covering.

CONDITION: Poor. The wooden floor is non-existent because of the fire.

EXTERIOR WALLS: Brick Veneer with wood frame.

HEIGHT: 10'-12' +/-

THICKNESS: 8"- 10" +/-

CONDITION: Poor. Brick veneer has fire damage and shows several structural cracks throughout the building. The fire damage has completely removed the wood frame exposing the brick veneer structure compromising the walls and structural integrity.

INTERIOR WALLS & CEILINGS: Wood frame walls & ceilings w/plaster veneer.

CONDITION: Poor. Walls & Ceiling are completely gone due to the fire, fire damaged exposed roof & ceiling assembly membranes on the patio. No Interior walls left due to fire damage.

ROOF STRUCTURE: Pitched roof with asphalt shingles.

CONDITION: Poor. The roof is non-existent and has collapsed due to fire 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 framed doors and windows.

CONDITION: Poor. The doors and windows are non-existent, deteriorated and missing due to fire damage.

MEANS OF EGRESS: Does not meet code requirements.

CONDITION: Poor. Windows, doors and window glass will need to be repaired or replaced to make them operational to meet minimum code requirements.

PLUMBING: Unknown

CONDITION: A licensed plumbing contractor should be hired to evaluate the plumbing system condition.

ELECTRICAL: Unknown

CONDITON: Unknown. A licensed electrical contractor should be hired to evaluate the electrical system condition.

MECHANICAL: Unknown

CONDITION: Unknown. A licensed mechanical contractor should be hired to evaluate the mechanical system condition.

IF CONDEMNED, HOW MANY PERSONS WILL BE AFFECTED: None

WARNING POSTED: Yes

BARRICADED: No

POLICE AID REQD.: No

REMARKS: The open and abandoned single family dwelling was built in 1930. The structure was found open, and dangerous to unwanted vistiors. The structure is in an advanced state of disrepair. The brick veneer shows signs of structural failure. The ceiling system is in disrepair throughout the structure. There is trash, weeds and debris throughout the property. The division recommends that the structure be demolished within thirty (30) days. That the property be cleaned of all weeds, trash and debris within thirty (30) days.

Kevin D Harrell
Building Inspector

Appraisal & Collection Technologies - EL PASO

Action Edit Query Record Field Help Entitlements Accounts Statements Window

ORACLE

Account Status

Prev. Acc... Next Acc... Prev. Owner Next Owner Acct History Acct Summary **Notes** Documents Go To: _____

EVAR 06/05/2013 18:16
ACT8006 v1.235 ACTEP

STATUS DETAIL **Expand Fees** Summary

Account Information

Account No. **M056-999-0350-7300** Roll Code REAL PROPERTY

Certified Owner HERRERA MIKE

Parcel Address 2717 SAN DIEGO AVE

Amount Due as of 06/05/2013 CAD No. 327468

Tax Units

Tax Unit Description

List of Tax Units

1 3 6 7 8 8001

AG INCLUDED Remove Fees Countywide

Tax Unit, Yr, Rec. Type

Tax Unit _____
Year _____
Rec. Type _____

Multi Select

Amount Due/Paid Information

Year	Gross Value	H	O	V	D	Base Levy	Paid Levy	Write-Off	Remaining Levy	Fees	Refund	Amount Due
2012	\$54,604					\$1,424.47	\$1,424.47	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2011	\$45,000					\$1,153.08	\$1,153.08	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2010	\$45,000					\$1,143.71	\$1,143.71	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2009	\$45,000					\$1,121.10	\$1,121.10	\$0.00	\$0.00	\$78.48	\$0.00	\$0.00
2008	\$45,000					\$1,124.46	\$1,124.46	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2007	\$69,561					\$1,752.33	\$1,752.33	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2006	\$59,647					\$1,726.30	\$1,726.30	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2005	\$44,744					\$1,397.09	\$1,397.09	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2004	\$43,536					\$1,352.33	\$1,352.33	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Totals						\$20,683.79	\$20,683.79	\$0.00	\$0.00	\$1,958.51	\$0.00	\$0.00

Last Payment Date _____ Last Payer _____

Alert

5:16 PM 6/5/2013