

5041 CHARL ANN STREET



BUILDING AND STANDARDS BOARD AGENDA ITEM 8 FOR
WEDNESDAY, August 25, 2010

Code Compliance Division

MEMORANDUM

August 16, 2010

TO: The Honorable Chairman and Board Members

THROUGH: John Neal – Interim Director for Code Compliance

FROM: Bill Stern, Deputy Building Official

Subject: 5041 Charl Ann St., El Paso, Texas 79932

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

First investigated on July 22, 2010. This single family dwelling was built in 1949. The property was found abandoned and neglected. The roof structure, air conditioner and exterior of all the structure show signs of deterioration due to lack of property maintenance. Weeds, trash, debris, and junk vehicles were spewed throughout the entire property. A portion of the rear side rock wall has collapsed thus allowing entry to the property.

- 1) A certified condemnation letter was mailed to Patrick M. and Mary Stewart Ebert, 5041 Charl Ann St., El Paso, Texas, 79932 and El Paso federal Savings and Loan Association, 517 North Kansas St., El Paso, Texas, 79901.
- 2) Certified notices of the public hearing scheduled for August 25, 2010, were mailed to the owners and all interested parties on June 30, 2010.
- 3) As of August 16, 2010, No taxes are owed.

The owner has been notified of the property violations at this property, to date there has been no response or corrective action taken, and therefore the Department recommends that it be found:

- 1) That the structure be condemned as 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 structure's certificate of occupancy be revoked; and
- 4) That the structure can be rehabilitated; and
- 5) That the structure be secured and maintained secure within thirty (30) days; and
- 6) That the premises be cleaned and maintained clean of all weeds, trash, and debris within 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
June 28, 2010

NOTICE OF VIOLATION

Ebert Patrick M & Mary F
DBA Finance Trust & Loans
5041 Charl Ann St.
El Paso, Texas 79932-2203

Re: 5041 Charl Ann St.
Blk: Monte Vista #3 Replat
Lot: TR 3 (0.244 Acres)
Zoned: R2
BSC10-00532
Mail Receipt #
7009 1410 0001 7187 2598

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, premises or within the structure that is in such disrepair or condition that such electrical wiring or device, flammable liquid containers, or other equipment on the 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 **5041 Charl Ann St., El Paso, Texas, 79932**, 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 walls have not been maintained in a safe manner free of holes and cracks. [Sec. 304.6]
- b. The roof structure has not been maintained free of defects that may cause leaks. [Sec. 304.7]
- c. The electrical system is inadequate and does not meet minimum code requirements. [Sec. 604.3]
- d. The premises are full of weeds, trash, and debris [Sec. 302.1 & Sec. 302.4].
- e. 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]
- f. The repairs to the structural elements and/or service systems referred to in the previous sections must be completed within 30 days of your receipt of this letter. If, due to the scope and complexity of the work more time is needed, you must make this request to the Building and Standards Commission at a hearing scheduled by this department.

In addition, the property was found to be in violation of the City Municipal Code, 302.7 Accessory structures.. All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair, and 302.8 Motor vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled.

As a result of the aforementioned violations, the following action may be taken:

- a. This case is being submitted to the City Building and Standards Commission for unsafe structures proceedings. The City Building and Standards Commission will decide if the structure is unsafe and if it should be vacated and secured, or demolished as per Chapter 2.38 of the El Paso Municipal Code.
- b. By authority of Chapter 18.02.103.9.3 of the El Paso Municipal Code the electrical service at this property may be disconnected at the request of the Building Permits and Inspections Department because of Electrical Code violations.

Many of these corrections will require a permit. Permits for commercial or rental property must be taken out by a bonded and insured contractor who is registered with the City of El Paso.

According to the real property records of El Paso County, you own the real property described in this notice. If you no longer own the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to the Code Compliance Division office, 7969 San Paulo Dr., El Paso, Texas, 79907, no later than the 20th day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice, even if you do not.

Should you have any questions regarding this matter, please contact me at 599-3745.

Sergio Melendez
Building Combination Inspector Supervisor

SM/nms

NOTICE OF PUBLIC HEARING

To All Interested Parties:

You are hereby notified that at 5:30 p.m. on the **25th** day of **August, 2010** 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 **5041 Charl Ann St.** in El Paso, Texas, which property is more particularly described as:

Legal Description: Lot 3, MONTE VISTA NO. 3, AMENDED REPLAT of portion of Lot 6, and all of Lots 7, 8 and 9, and addition to the City of El Paso, El Paso County, Texas, according to the map thereof on file in Book 13, page 44, Plat Records of El Paso County, Texas

is unsafe and dangerous, because of the following violations:

- a. The walls have not been maintained in a safe manner free of holes and cracks. [Sec. 304.6]
- b. The roof structure has not been maintained free of defects that may cause leaks. [Sec. 304.7]
- c. The electrical system is inadequate and does not meet minimum code requirements. [Sec. 604.3]
- d. The HVAC system is inadequate and does not meet minimum code requirements. [Sec. 603.1]
- e. The structure needs to be secured from unwanted entry and ongoing vandalism, and the premises need to be cleaned of trash and debris within (30) days from receipt of this letter. [Sec. 108.2]
- f. The repairs to the structural elements and/or service systems referred to in the previous sections must be completed within 30 days of your receipt of this letter. If, due to the scope and complexity of the work more time is needed, you must make this request to the Building and Standards Commission at a hearing scheduled by this department.

According to the real property records of the County of El Paso, Texas, **Patrick M. Ebert and Mary Frances Stewart Ebert, 5041 Charl Ann Street, El Paso, Texas, 79932-2203 and El Paso Federal Savings and Loan Association, Jack T. Starnes, Trustee, 517 N. Kansas Street, El Paso, Texas, 79901**, ("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 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.

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 is 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 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.

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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:

- V) 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;
- VI) 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
- VII) appoint a receiver as permitted by state law; and
- VIII) any other remedies permitted by state law.

Any civil penalty or assessment imposed will accrue interest at a rate of ten (10) percent a year from the date of the assessment until paid in full;

The City Clerk is ordered to provide notice of this hearing to the record Owners and all other persons having an interest in the property as provided by law.

APPROVED AS TO FORM:

Cynthia Osborn
Assistant City Attorney

APPROVED AS TO CONTENT:

Bill Stern, C.B.O.
Chief Building Inspector
Building Permits and Inspections 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 of Public Hearing regarding the property located at **5041 Charl Ann St.** was filed with the County Clerk's Office, the official public records of real property for El Paso County.

Richarda Duffy Momsen

Executed this ____ day of _____, 2010 on behalf of the City of El Paso, Texas, by Richarda Duffy Momsen in her capacity as City Clerk.

STATE OF TEXAS
COUNTY OF EL PASO

Subscribed and sworn to before me, this ____ day of _____, 2010.

Notary Public

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 at **5041 Charl Ann St.** was PUBLISHED in the official City newspaper on the ____day of _____, 2010.

Richarda Duffy Momsen

I certify that a true and correct copy of the foregoing Notice regarding the property at **5041 Charl Ann St.** was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Melody K. & Arnold Dunn
5041 Charl Ann St.
El Paso, Texas 79904

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at **5041 Charl Ann St.** was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

The Bank of New York
101 Barclay St.
New York, NY 10286

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at **5041 Charl Ann St.** was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Margaret M. Buford
2727 Titanic Ave.
El Paso, Texas 79904

Date:
Time:

I certify that a true and correct copy of the foregoing Notice regarding the property at **5041 Charl Ann St.** was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Miranda & Miranda
Attorney at Law
2330 Montana Ave.
El Paso, Texas 79903

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at **5041 Charl Ann St.** was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Countrywide Home Loans, Inc.
4500 Park Granada MSN# SVB-314
Calabasa, CA 91302-1613

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at **5041 Charl Ann St.** was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Guaranty Bond Bank
3250 Lamar Ave.
Paris, Texas 78160

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at **5041 Charl Ann St.** was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

"Mers" Mortgage Electronic Registration System, Inc.
P. O. Box 2026
Flint, MI 48501-2026

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at **5041 Charl Ann St.** was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Law Office of Jeffrey E. Davis
420 Throckmorton St., Ste 750
Fort Worth, Texas 76102

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at **5041 Charl Ann St.** was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Melody K. Dunn
5041 Charl Ann St.
El Paso, Texas 79912

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at **5041 Charl Ann St.** was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Delgado, Acosta, Spencer
Linebarger, Heard & Perez, LLP
Attn: Bonnie Cooper
221 N. Kansas Suite 1400
El Paso, Texas 79901

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at **5041 Charl Ann St.** 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 **5041 Charl Ann St.** 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 **5041 Charl Ann St.** 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 **5041 Charl Ann St.** 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 was POSTED at
5041 Charl Ann St. El Paso, Texas.

Date:

Time:

Inspector

UNSAFE STRUCTURES REPORT

BUILDING PERMITS AND INSPECTIONS

DATE OF EXAMINATION: July 22, 2010

REP. DISTRICT: 8

ADDRESS: 5041 Charl Ann

ZONED: R-2

LEGAL DESCRIPTION: Lot 3, MONTE VISTA NO. 3, AMENDED REPALAT of portion of Lot 6 and all of Lots 7, 8 and 9, an addition to the City of El Paso, El Paso County, Texas.

OWNER: Patrick M. and Mary Francis Ebert

ADDRESS: 5041 Charl Ann
El Paso, Texas 79932

BUILDING USE: Abandoned single family dwelling

TYPE OF CONSTRUCTION: V, C.M.U. and wood frame with plaster 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: Concrete stem wall

CONDITION: Notable cracks and crumbling found in several areas. A structural engineer should be hired to evaluate actual condition.

FLOOR STRUCTURE: Concrete

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

EXTERIOR WALLS: C.M.U. and wood frame with plaster coating.

HEIGHT: 10' +/-

THICKNESS: 4"-8"

CONDITION: Poor. There are several notable cracks on the concrete block wall and exposed wooden elements show signs of rot due to lack of maintenance.. A structural engineer should be hired to evaluate the structural elements of the building and submit a report on the corrections required to make the building safe.

INTERIOR WALLS & CEILINGS: Wood frame

CONDITION: Unable to determine. A structural engineer should be hired to evaluate the structural elements of the building and submit a report of the required corrections to make the buildings safe.

ROOF STRUCTURE: Gable roof with asphalt shingle covering

CONDITION: Poor, disintegrating due to lack of maintenance. 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 frame doors and steel casement windows

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

MEANS OF EGRESS: Does not meet code requirements.

CONDITION: Poor. Windows and doors must be replaced to make them operational.

PLUMBING: Inadequate, a licensed plumber should be hired to bring system up to code.

ELECTRICAL Inadequate, a licensed electrician should be hired to bring system up to code.

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

IF CONDEMNED, HOW MANY PERSONS WILL BE AFFECTED: None

WARNING POSTED: Yes

BARRICADED: No

POLICE AID REQD.: No

REMARKS: This single family dwelling was built in 1949. The property was found abandoned and neglected. The roof structure and covering has deteriorated due to basic lack of maintenance. The structure was found in a state of disrepair also due to lack of maintenance and should be repaired within thirty (30) days. The property cleaned of all weeds, trash, debris and junk vehicles within thirty (30) days.

Sergio Melendez

Combination Building Inspector Supervisor