2901 FORT

BUILDING AND STANDARDS BOARD AGENDA ITEM # 11 FOR WEDNESDAY, AUGUST 27, 2008

DEVELOPMENT SERVICES
BUILDING PERMITS AND INSPECTIONS

MEMORANDUM
August 18, 2008

TO: The Honorable Chairman and Board Members

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

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

SUBJECT: 2901 Fort Boulevard

On June 25, 2008, a hearing was held before the Building and Standards Commission at City Council Chambers and it was found that the structure located on said property is substandard, unfit for habitation or use, a hazard to the public health, safety and welfare, and that the structure is not in substantial compliance with the Municipal Ordinances regulating fire protection, structural integrity and disposal of refuse. The Building and Standards Commission ordered the owners to secure all openings with plywood, to secure the property with a 6' chain link fence and to submit plans for rehabilitation to the City within thirty (30) days. To rehabilitate the structure within sixty (60) days and to maintain the premises clean of all weeds, trash and debris. That the owners appear at a hearing scheduled for August 27, 2008 to determine if the Building and Standards Commission orders of June 25, 2008 and April 30, 2008 have been complied with and if not to determine penalties. Certified notices of the public hearing scheduled for August 27, 2008, were mailed to the owners and all interested parties on August 14, 2008.

The owners have been notified of the violations at this property, and has received a copy of the Building and Standards Commission order dated June 25, 2008 and April 30, 2008 of the need to demolish the structure on or before August 25, 2008, to date the rehabilitation plans have not been submitted, therefore the Department recommends that it be found:

1) That the owner Mr. Jesse Ochoa is in violation of the Building Standards Commission order dated June 25, 2008, to secure all the openings with plywood within 30 days; and
2) That the rehabilitation plans were not submitted within thirty (30) days; and
3) That the structure be demolished within thirty (30) days; and
4) 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.

NOTICE OF PUBLIC HEARING

To All Interested Parties:

You are hereby notified that at 5:30 p.m. on the **25th** day of **June, 2008** 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 **2901 Fort Blvd.**, in El Paso, Texas, which property is more particularly described as:

> **Legal Description: All of Lots 3 and 4 in Block 10, MILITARY HEIGHTS ADDITION to the City of El Paso, El Paso County, Texas. All of L ots 1 and 2 in Block 10 of MILITARY ADDITION to the City of El Paso, El Paso County, Texas.**

and which is subject to that certain Building and Standards Commission Order dated April 30, 2008 has been brought into compliance with said Order, and if not to determine penalties.

According to the real property records of the County of El Paso, Texas, Jesse & Margaret T. Ochoa (the "**Owners**"), 2706 Hamilton Ave., El Paso, Texas 79930**,** are listed as the owners of the real property described herein.

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

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 Owner, 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 Owner 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, 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.

APPROVED AS TO FORM:	APPROVED AS TO CONTENT:
_____	_____
Mark Shoesmith Assistant City Attorney	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 regarding the property located at 2901 Fort Blvd. was PUBLISHED in the official City newspaper on the ___day of_____, 2008.

Richarda Duffy Momsen

I certify that a true and correct copy of the foregoing Notice regarding the property at 2901 Fort Blvd. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Jesse and Margaret T. Ochoa
2706 Hamilton
El Paso, Texas 79930

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 2901 Fort Blvd. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Small Business Administration
10737 Gateway West, Suite 320
El Paso, Texas 79935

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 2901 Fort Blvd. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Allen Construction
C/O Jesse Allen
1801 Wyoming, Ste 203
El Paso, Texas 79902

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 2901 Fort Blvd. was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

E. P. Bud Kirk
6006 North Mesa, Ste. 806
El Paso, Texas 79912

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 2901 Fort Blvd. 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 2901 Fort Blvd. 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 2901 Fort Blvd. 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 2901 Fort Blvd. 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 2901 Fort Blvd. 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 2901 Fort Blvd., El Paso, Texas.

Date:
Time:

Inspector

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

WHEREAS, the Deputy Director for Building Permits and Inspections of the City of El Paso has conducted an investigation and has reported to the Building and Standards Commission in writing that he is of the opinion that the structures located on the property at **2901 Fort Blvd.,** in El Paso, Texas, which property is more particularly described as follows:

> **LEGAL DESCRIPTION: All of Lots 3 and 4 in Block 10, MILITARY HEIGHTS ADDITION to the City of El Paso, EL Paso County, Texas. All of Lots 1 and 2 in Block 10 of MILITARY ADDITION to the City of El Paso, El Paso County, Texas**

is dilapidated, substandard, and unfit for human habitation; are 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, Jesse and Margaret T. Ochoa, 2706 Hamilton Ave., El Paso, Texas 79930 **(the "Owners"),** record Owners, and all mortgagees and lienholders were duly notified according to law to appear at a public hearing before the Building and Standards Commission at 5:30 p.m. on June 25, 2008 and

WHEREAS, Jesse Ochoa, Owner and Sebastian Soto, representative 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 in order to be made safe, all of the aforementioned violations must be corrected.

2. That the Building and Standards Commission hereby orders the structure's certificate of occupancy revoked and the Owner to comply with the following requirements:

   A. That all openings be secured with plywood within thirty (30) days; and

B. That the property be secured with 6’ chain link fence within thirty (30) days; and

C. That plans for rehabilitation be submitted to the City within thirty (30) days; and

D. That the structure be rehabilitated within sixty (60) days; and owner to appear at a hearing scheduled for August 27, 2008 to determine if the Building and Standards Commission order of June 25, 2008 has been complied with and if not to determine penalties.

3. That upon failure of the Owner to comply with this Order, any mortgagees, lienholders, and/or other persons having an interest in the property have an additional ten (10) days to clear the property of all weeds, trash, and debris, and secure all the structures on the property.

4. That upon failure of the Owner, mortgagees, lienholders, and/or any other person having an interest in the property to comply with this Order, the City of El Paso, through its Director for Building Permits and Inspections, shall:

A. Secure the structure; and

B. Clean the property and maintain clean 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; and

5. That upon failure of the Owner 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. **RIGHT TO APPEAL**: ***The decision of the Building and Standards Commission is final (see discussion of rehearing, below). An appeal may be filed by verified petition in State District Court, setting forth that the decision of the Commission is illegal, in whole or in part, and specifying the grounds of the illegality. Petition for appeal must be filed by the owner(s) or interested party within twenty (20) days of receipt of notice of the Order of the Commission. Appeals in District Court are limited to hearings under the substantial evidence rule.A rehearing by the Building and Standards Commission may only be granted in the following circumstances:***

A. Proper request is made within twenty (20) days of receipt of notice of the Order of the Commission; and

B. Rehearing fees of five hundred and forty dollars ($540.00) are furnished with the rehearing request. The Building and Standards Commission may waive these fees in cases of financial hardship based on written affirmation from the applicant.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the City Clerk shall cause copies of this Order to be served on the record owner(s) and all other persons having interest in the property as provided by law.

According to the real property records of El Paso County, you own or have an interest in the property described in this notice. If you no longer own or have an interest in the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office no later than the twentieth
(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 25th day of June, 2008.

BUILDING AND STANDARDS COMMISSION

_____
Jimmy Stevens, Acting Chair, Panel B

APPROVED AS TO FORM:

_____
Mark Shoesmith
Assistant City Attorney

APPROVED AS TO CONTENT:

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

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

WHEREAS, the Deputy Director for Building Permits and Inspections of the City of El Paso has conducted an investigation and has reported to the Building and Standards Commission in writing that he is of the opinion that the structure located on the property at **2901 Fort Blvd.,** in El Paso, Texas, which property is more particularly described as follows:

> **LEGAL DESCRIPTION: All of Lots 3 and 4 in Block 10, MILITARY HEIGHTS ADDITION to the City of El Paso, El Paso County, Texas. All of Lots 1 and 2 in Block 10 of MILITARY ADDITION to the City of El Paso, El Paso County, Texas**

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, Jesse & Margaret T. Ochoa, **(the "Owners"),** 2706 Hamilton Ave., El Paso, Texas 79930, record Owners, and all mortgagees and lienholders were duly notified according to law to appear at a public hearing before the Building and Standards Commission at 5:30 p.m. on April 30, 2008 and

WHEREAS, Jesse Ochoa, owner and his representative Roberto Leal 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 may possibly be repaired.

E. That in order to be made safe, all of the aforementioned violations must be corrected.

2. That the Building and Standards Commission hereby orders the structure's certificate of occupancy revoked and the Owner to comply with the following requirements:

A. That the main structure be secured and maintained secured within thirty (30) days; and

B. That the premises be cleaned and maintained clean of all weeds, trash and debris within 30 days.

C. To submit a feasibility study to rehabilitate the structure within thirty (30) days; and

D. To submit plans for the rehabilitation of the structure within sixty (60) days; or

E. Demolish the structure within sixty (60) days; and

F. Owner to appear at a hearing scheduled for June 25, 2008 to determine if the Building Standards Commission order of April 30, 2008 has been complied with and if not to determine penalties.

3. That upon failure of the Owner to comply with this Order, any mortgagees, lienholders, and/or other persons having an interest in the property have an additional ten (10) days to clear the property of all weeds, trash, and debris, and secure/demolish the structure on the property.

4. That upon failure of the Owner, 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. Demolish the structure; and

B. Clean the property and maintain clean 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; and

5. That upon failure of the Owner(s) to comply with this Order, the City of El Paso through its Director for Building Permits and Inspections may request a hearing before the Building and Standards Commission to:

   A. Determine the amount and duration of civil penalties the City of El Paso may recover for failure to comply with this Order as allowed by Texas Local Government Code Chapter 54; and

   B. Provide any other remedies permitted by State law.

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 subjectto the requirements of this Order.

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   A. Proper request is made within twenty (20) days of receipt of notice of the Order of the Commission; and

   C. Rehearing fees of five hundred and forty dollars ($540.00) are furnished with the rehearing request. The Building and Standards Commission may waive these fees in cases of financial hardship based on written affirmation from the applicant.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the City Clerk shall cause copies of this Order to be served on the record owner(s) and all other persons having interest in the property as provided by law.

According to the real property records of El Paso County, you own or have an interest in the property described in this notice. If you no longer own or have an interest in the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office no later than the twentieth ($20^{th)}$ 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 30th day of April, 2008.

BUILDING AND STANDARDS COMMISSION

_____

Bob Ayoub, Chairman, Panel B

APPROVED AS TO FORM:

_____

Mark Shoesmith
Assistant City Attorney

APPROVED AS TO CONTENT:

_____

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