

**3330 MONTANA
A/K/A
713-719 LUNA**



**BUILDING AND STANDARDS BOARD AGENDA ITEM #5 FOR
WEDNESDAY, AUGUST 29, 2012**

CODE COMPLIANCE DIVISION

MEMORANDUM

August 15, 2012

TO: The Honorable Chairman and Board Members

THROUGH: Kurt Fenstermacher, Deputy Director, Code Compliance Division

FROM: Bill Stern, Deputy Building Official

SUBJECT: 3330 Montana Avenue, El Paso, Texas, 79903

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

- 1) First investigated on May 4, 2012. The multifamily dwellings were built in 1929, according to Central Appraisal records, constructed of Brick walls with plaster coating and a wood framed roof structure. The two story accessory structure was built of rubble stone with masonry grout. The structures were found open, abandoned, in an advanced state of disrepair and being used as harborage by vagrants. The exterior of the structures is showing signs of rapid deterioration due to lack of maintenance and exposure to the elements. There are several structural cracks and structural failure throughout the structures. The two duplexes are completely gutted out exposing the wood framing members. The plumbing, electrical and mechanical systems are none existent. The property is full of weeds, trash and debris.
- 2) A certified condemnation letter was mailed to Millan Family LP.
- 3) Certified notices of the public hearing scheduled for August 29, 2012, were mailed to the owners and all interested parties on August 9, 2012.
- 4) As of August 21, 2012, no taxes are owed.

The owners have been notified of the property maintenance violations at this property. To date there has been no response or corrective action taken and therefore the Division recommends that it be found:

- 1) That the structures are substandard, and unfit for habitation or use and a hazard to the public health, safety, and welfare; and
- 2) That the structures are not in substantial compliance with the municipal ordinances regulating fire protection, structural integrity, and disposal of refuse; and
- 3) That the structures' certificate of occupancy be revoked; and
- 4) That the structures cannot be rehabilitated; and
- 5) That the structures be demolished within thirty (30) days; and
- 6) That the premises be cleaned and maintained clean of all weeds, trash, and debris within thirty (30) days; and
- 7) That upon failure by the owner or any other interested party to comply with the order of the Building and Standards Commission the City may take whatever action is necessary to bring the property into compliance, and place a lien on the property for the work which will be done by the City.

Code Compliance Division
May 23, 2012

NOTICE OF VIOLATION

Millan Family LP
5162 Willow Creek Cir.
El Paso, Tx. 79932-2522

Re: 3330 Montana Ave.
Blk: 92 East El Paso
Lot: 17 & 20
Zoned: S-D
ENHS12-00296
7199 9991 7030 7775 4868

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 **3330 Montana Ave, 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 floors have not been maintained in a safe manner. [Sec. 304.1.1.9]
- b. The walls have not been maintained in a safe manner free of holes and cracks. [Sec. 304.6 & Sec.305.2]
- c. The roof structure has not been maintained free of defects that may cause leaks. [Sec. 304.7]
- d. The means of egress is/are inadequate and do not meet minimum code requirements. [Sec. 702.4]
- e. The plumbing system is inadequate and does not meet minimum code requirements. [Sec. 504.1]
- f. The electrical system is inadequate and does not meet minimum code requirements. [Sec. 604.3]
- g. The HVAC system is inadequate and does not meet minimum code requirements. [Sec. 603.1]
- h. The structure is open and accessible to unauthorized entry. [Sec. 301.3]
- i. The premises are full of weeds, trash, and debris [Sec. 302.1 & Sec. 302.4].
- j. The structure needs to be secured from unwanted entry and ongoing vandalism, and the premises need to be cleaned of all trash and debris within (30) days from receipt of this letter. [Sec. 108.2]
- k. The repairs to the structural elements and/or service systems referred to in the previous sections must be completed within 30 days of your receipt of this letter. If, due to the scope and complexity of the work more time is needed, you must make this request to the Environmental Services Department, Code Compliance Division.

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

- a. This case is being submitted to the City Prosecutor's Office for court proceedings. The court will decide if the structure is unsafe and if it should be vacated and secured, or demolished as per Chapter 2.38 of the El Paso Municipal Code.
- b. By authority of Chapter 18.02.103.10.3.3 of the El Paso Municipal Code the electrical service at this property may be disconnected at the request of the Environmental Services Department, Code Compliance Division because of Electrical Code violations.

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

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

Should you have any questions regarding this matter, please contact me at 599-6290.

Nellie Avalos
Building Inspector

na/lmm

NOTICE OF PUBLIC HEARING

To all interested parties:

The owners, mortgagee, lien holders and any others with a legal interest in the property described below are hereby ordered to appear before the Building and Standards Commission, herein after referred to as the "Commission", at the following time and place:

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

DATE: August 29, 2012

TIME: 5:30 p.m.

PROPERTY: 3330 MONTANA AVENUE, EL PASO, TEXAS also described as Lots 17, 18, 19 and 20, Block 92, EAST EL PASO ADDITION, an addition to the City of El Paso, El Paso County, Texas, according to the map and plat thereof on file in Volume 1, Page 51, Plat Records of El Paso, County, Texas.

The Property has been determined to be substandard based upon violations of the minimum standards of the 2009 Building Codes, adopted and incorporated in the El Paso City Code, Chapter 18, more specifically addressed below.

According to the real property records of El Paso County, and other relevant public records, MILLAN FAMILY, LP, MILLAN GP, LLC (General Partner), Attn: Felipe Millan, Manager, 5162 Willow Creek Circle, El Paso, Texas 79932; and UNITED BANK OF EL PASO DEL NORTE, ATTN: Joe R. Fernandez, Trustee, 125 Mesa Hills Drive, El Paso, Texas 79912, are the owners, herein after referred to as the "Owners" of the Property. If you no longer own or have an interest in the Property, you must execute an affidavit stating that you no longer own or have an interest in the Property and stating the name and last known address of the person who acquired the property from you, if applicable. The affidavit must be delivered in person or by certified mail, return receipt requested, to 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.

On or about May 23, 2012 an inspection of the Property was conducted by the Environmental Services Division and the following violations were identified:

- a. The floors have not been maintained in a safe manner. (Code Sec. 304.1.1.9 of the 2009 International Property Maintenance Code (IPMC))
- b. The walls have not been maintained in a safe manner free of holes and cracks. (Sec. 304.6 & Sec.305.2 of the 2009 IPMC)
- c. The roof structures have not been maintained free of defects that may cause leaks. (Sec. 304.7 of the 2009 IPMC)

- d. The means of egress is/are inadequate and do not meet minimum code requirements. (Sec. 702.4 of the 2009 IPMC)
- e. The plumbing system is inadequate and does not meet minimum code requirements. (Sec. 504.1 of the 2009 IPMC)
- f. The electrical system is inadequate and does not meet minimum code requirements. (Sec. 604.3 of the 2009 IPMC)
- g. The HVAC system is inadequate and does not meet minimum code requirements. (Sec. 603.1 of the 2009 IPMC)
- h. The structures are open and accessible to unauthorized entry. (Sec. 301.3 of the 2009 IPMC)
- i. The premises are full of weeds, trash, and debris (Sec. 302.1 & Sec. 302.4 of the 2009 IPMC)
- j. The structures need to be secured from unwanted entry and ongoing vandalism. (Sec. 108.2 of the 2009 IPMC)

The Owners are entitled to show cause that the Property is safe, does not constitute a dangerous structure and should not be declared a nuisance and ordered abated by presenting relevant evidence and testimony. If the Owners advocate for repair, then they bear the burden of proof to demonstrate the scope of any work that may be required to bring the property into compliance with Chapter 18.50 and the time it will take to reasonably perform the work. The allowable time periods for repair are governed by Texas Local Government Code, Sections 214.001(h), (i), (j) and (k). Any document relied upon to demonstrate that the Property is safe or that it can be repaired must be presented to the Commission at the hearing, including building plans, specifications, drawings, or reports from professionals and any other relevant documentation.

If the Owners fail to comply with the order of the Commission the City may pursue one or more of the following actions:

- Perform any and all work necessary to bring the property into compliance with the Commission's order;
- Assess civil penalties, provided for in the Commission's order, in an amount not to exceed \$1,000 per day or \$10 per day if the Property has a homestead exemption, that will accrue interest of 10% per year until paid in full;
- Appoint a receiver as permitted by state law; and
- Any other remedies permitted by state law.

Commission orders may be appealed to the State District Court within 30 days of the Final order. The Commission's authority and procedures in regard to a Dangerous Structure Hearing may be found in Chapter 2.38 of the El Paso City Code and in their duly adopted bylaws. A copy of the ordinance adopting the most current version of Chapter 2.38 is enclosed. The bylaws may be obtained at the Code Compliance Division of Environmental Services, 7969 San Paulo Drive, El Paso, Texas 79907 or by calling (915) 599-6290.

This notice will be recorded in the real property records of El Paso County and will be binding on subsequent grantees, lien holders or other transferees of an interest in the Property.

The City Clerk is ordered to provide notice of this hearing to the record owners and all other interested parties, required by law, who are listed following this notice, and file this notice in the real property records of El Paso County.

FAILURE OF THE OWNER AND/OR LIENHOLDER OR MORTGAGEE TO TAKE THE ORDERED ACTION MAY RESULT IN THE CITY TAKING THE ORDERED ACTION AND FILING A LIEN AGAINST THE PROPERTY.

The City of El Paso appreciates your cooperation and prompt attention to remedying the nuisances on the Property. Please do not hesitate to contact me should you have any additional questions, comments or concerns relative to this notice.

APPROVED AS TO FORM

APPROVED AS TO CONTENT

Lesley J. Nicholes
Assistant City Attorney

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

Enclosures:

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 3330 Montana Avenue, El Paso, Texas was PUBLISHED in the official City newspaper on the ____ day of _____, 2012.

Richarda Duffy Momsen

I certify that a true and correct copy of the foregoing Notice regarding the property at 3330 Montana Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Millan Family, LP; Millan GP, LLC (General Partner)
Attn: Felipe Millan, Manager
5162 Willow Creek Circle
El Paso, TX 79932

Date: _____

Time: _____

Inspector: _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 3330 Montana Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

United Bank of El Paso del Norte
Attn.: Joe R. Fernandez, Trustee
125 N. Mesa Hills
El Paso, TX 79912

Date: _____

Time: _____

Inspector: _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 3330 Montana Avenue was HAND-DELIVERED to:

City of El Paso
C/O City Clerk
#2 Civic Center Plaza
El Paso, TX 79901

Date: _____

Time: _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 3330 Montana Avenue 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 3330 Montana Avenue 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 3330 Montana Avenue 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 3330 Montana Avenue 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 3330 Montana Avenue, El Paso, Texas.

Date: _____

Time: _____

Inspector: _____



UNSAFE STRUCTURES REPORT

CODE COMPLIANCE DIVISION

DATE OF EXAMINATION: August 14, 2012

REP. DISTRICT: 8

ADDRESS: 3330 Montana Avenue a/k/a 713-719 Luna

ZONED: S-D

LEGAL DESCRIPTION: Lots 17, 18, 19 and 20, Block 92, EAST EL PASO ADDITION

OWNER: Millan Family LP.

ADDRESS: 5162 Willow Creek Circle
El Paso, TX 79932-2522

BUILDING USE: Abandoned multifamily dwellings and accessory structures

TYPE OF CONSTRUCTION: Type V, masonry and brick

FOOTINGS: Concrete

CONDITION: Unable to determine condition, footings are underground and must be evaluated by an engineer to determine actual condition.

FOUNDATION WALL: Rubble stone w/masonry grout

CONDITION: Poor. Showing signs of deterioration due to lack of maintenance.

FLOOR STRUCTURE: None existent

CONDITION: Poor. The floor systems have been removed.

EXTERIOR WALLS: Brick covered by stucco and the accessory structure is constructed of rubble stone w/masonry grout.

HEIGHT: Duplexes 15 +/-
Accessory structure 20 +/-

THICKNESS: 9" - 10" +/-
12" +/-

CONDITION: Poor. Several structural deficiencies were found. Some stucco veneer has fallen exposing the brick areas. A structural engineer should be hired to evaluate structural elements of the buildings.

INTERIOR WALLS & CEILINGS: None existent.

CONDITION: Poor. The walls and ceiling have been completely removed exposing the wood framing.

ROOF STRUCTURE: Wood framing covered with asphalt roll roofing composition.

CONDITION: Poor. Natural exterior light seeping through; exposed roof joists are deteriorated and decaying due to lack of maintenance and exposure to the elements. A licensed roofing contractor in the state of Texas should be hired to evaluate the roofing system.

DOORS, WINDOWS, ETC.: Wood frame windows and doors.

CONDITION: Poor. Most glass needs to be replaced. Doors need to be replaced.

MEANS OF EGRESS: Does not meet egress requirements.

CONDITION: Poor.

PLUMBING: Poor. A licensed plumbing contractor must be hired to evaluate the entire plumbing system and submit a report to this department on the corrective action required to bring the system up to minimum code compliance.

ELECTRICAL: Poor. A licensed electrical contractor must be hired to evaluate the entire electrical system and submit a report to this department on the corrective action required to bring the system up to minimum code compliance.

MECHANICAL: Poor. A licensed mechanical contractor must be hired to evaluate the entire mechanical system and submit a report to this department on the corrective action required to bring the system up to minimum code compliance.

IF CONDEMNED, HOW MANY PERSONS WILL BE AFFECTED: None

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

REMARKS: The structures were found open and abandoned, completely gutted out and in a state of disrepair. The department recommends that the structures be demolished within thirty (30) days and the property cleaned within thirty (30) days and maintained clean of weeds, trash and debris.

Nellie Avalos
Building Inspector

Appraisal & Collection Technologies - EL PASO

ORACLE

Action Edit Query Record Field Help Entitlements Accounts Statements Window

Account Status

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

EVAR 08/21/2012 16:04:45
ACT8006 v1.221 ACTEP

STATUS DETAIL **Expand Fees** Summary

Account Information

Account No. **E014-999-0920-5100** Roll Code REAL PROPERTY
 Certified Owner MILLAN FAMILY LP
 Parcel Address 3330 MONTANA AVE
 Amount Due as of 08/21/2012 CAD No. 283813

Tax Units

Tax Unit Description
 List of Tax Units 1 3 6 7 8
 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
2011	\$149,842					\$3,839.56	\$3,839.56	\$0.00	\$0.00	\$575.94	\$0.00	\$0.00
2010	\$149,842					\$3,808.32	\$3,808.32	\$0.00	\$0.00	\$571.25	\$0.00	\$0.00
2009	\$149,842					\$3,733.06	\$3,733.06	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2008	\$149,842					\$3,744.22	\$3,744.22	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2007	\$149,842					\$3,774.69	\$3,774.69	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2006	\$143,989					\$4,167.35	\$4,167.35	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2005	\$135,266					\$4,223.56	\$4,223.56	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2004	\$134,298					\$4,171.57	\$4,171.57	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2003	\$131,906					\$3,990.46	\$3,990.46	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Totals						\$59,238.58	\$59,238.58	\$0.00	\$0.00	\$1,147.19	\$0.00	\$0.00

Last Payment Date
 Last Payer

Alert

3:04 PM 8/21/2012