

**CITY OF EL PASO**  
**BUILDING & STANDARDS COMMISSION BOARD PANEL “B”**  
**June 29, 2016**  
**5:30 P.M.**

**MINUTES**

The Building & Standards Commission Panel “A” held a public hearing at the El Paso City Council Chambers, Wednesday, June 29, 2016, at 5:30 p.m. with the following members present:

**Board Members Present:**

Michael Bray  
Armando Jimarez  
Al Jurado  
Angel Miguel Ochoa  
Alejandro Ganen  
Ulises Estrada  
Sam Guido

**Others Present:**

Larry Nichols, Director  
John Batoon, Senior Assistant City Attorney  
Wendi Vineyard, Assistant City Attorney  
Laura Foster, Architect  
Nathan Walsh, Chief Building Inspector  
Salvador Reyes, Building Inspector  
Nancy Spencer, Recording Secretary

**Board Members Absent**

Randy Boggs  
Stefanie Uribarri (left before meeting started)

**AGENDA**

**I. Call to Order**

The meeting was called to order by Chairman Michael Bray at 5:40 p.m.

**II. Approval of the April 27, 2016 minutes**

**Motion made by Angel Miguel Ochoa, seconded by Al Jurado to approve the April 27, 2016 minutes, unanimously passed.**

**III. Call to the Public – Public Comment**

Sonya Cahalan, Code Field Operations Supervisor advised that there was one individual wishing to address the commission reference the approval of the April 27, 2016 minutes.

Ms. Judith French, representative for the Caples Land Company addressed the board on several items noted on the minutes for April 27, 2016 involving the presentation made for 105 N. Oregon and requested for her objections to be made part of the record. First objection was on page 7, the bottom of the third paragraph. Ms. French commented that the last sentence is inconsistent with the fine as described in the remainder of the minutes. The sentence stated 1000 days from March 31<sup>st</sup>, 2010 which totaled 1058 days, but the minutes will identify a penalty of \$1000 a day for a total of 2,158 days. In addition, pages 8, 9, 10 identified various exhibit presentations up to exhibit number 43 which Ms. French objected to the manner in which they were labeled. Ms. French’s comments included that the exhibit numbers were followed not by a description of the exhibits but by a speculative, conclusory and hearsay riddled narrative. The narratives in its present form are inflammatory, misleading and inaccurate. She added that examples of this would be exhibit 6 which identifies what are actually bird droppings as fecal matter. Exhibit 18 was described as an illegal installation of a structural system consisting of cinder blocks which is holding a structure above making it dangerous. The cinderblock column

is not nor has it ever been representative of ever being structural. Ms. French described this as two examples of how the text following the exhibits is not a description of the actual exhibit, but is rather a narrative. Further, the photos used as exhibits are not authenticated by an identified photographer or by a date and time in which the photos were taken. On page 12, third paragraph, there is a reference to board member Randy Boggs asking if the amount of money owed is obsessive and they believe the proper word should be excessive. Chairman Bray asked Ms. French if that was their interpretation of what the commissioner said or her understanding of what should have been said. Ms. French replied that minutes stated obsessive but that their understanding was excessive. Mr. Bray advised he understood the difference between the two words. Ms. French advised they believed there was a problem with the transcription. Ms. French continued by stating that on page 13, 1st paragraph, line 2, the sentence is referencing "he stated their authority on an order whether it has been complied with or not" makes it is confusing on whether there is going to be a fine or if staff recommendations will be accepted. Ms. French stated they are not sure if the wording should be "are" or "our" because the phrase as it reads is grammatically confusing. Ms. French stated those were the objection comments they wanted to be read into the record.

Chairman Bray thanked Ms. French for her time. Mr. Bray advised that it was a basic transcript for their edification, not an official transcript.

Senior Assistant City Attorney John Batoon addressed the commission. Mr. Batoon advised he conducted the original hearing. He stated that all the objections raised as to the content and substance of the order as reflected in the minutes were matters which could have been and should have been raised by their attorney who was present at the meeting. Hearsay objections, with respect to the authenticity to the pictures, were waived because they weren't made at the time of the hearing. Additionally, an appeal has been filed and all these matters will be properly addressed at the appeal hearing and not here at the meeting and are not part of the minutes. Mr. Bray thanked Mr. Batoon and again advised that this was meant for public comment and not action to be taken.

Chairman Bray asked if there was anyone else present to give public comment. Hearing no further comments, Mr. Bray continued forward with the cases to be presented.

### **Regular Items**

- IV. Public hearings to determine if the property located at 409 Huerta St. in the City of El Paso (legal description on file with the City Clerk) is a dangerous structure and determine if the owner will be ordered to secure, repair, remove or demolish the property. The owners of this property have been identified as Adolfo and Amelia Arteaga (record owners), and they have been notified of this hearing

Salvador Reyes, Building Inspector introduced the case to the commission and gave a brief chronology on the history of the property and the condition that it was found in.

Board member Armando Jimarez questioned the stability of the roof. Mr. Jimarez commented that the roof looked very fragile and subject to collapse. Inspector Reyes advised the roof was in bad shape. Board member Ulises Estrada asked if 30 days recommended for demolition of the property was typical of such an order. Inspector Reyes advised he was out there on April 14<sup>th</sup>, 2016, and that was also the same date when the letter was mailed out. There has been no attempt to contact the office and inform him of what the plans for the property were. Inspector Reyes also advised that he spoke to the son of the owner two or three days prior to the meeting and was advised that the intentions were to demolish the property. However, no permits have been obtained and no one has called him since. Assistant City Attorney Wendi Vineyard advised the commission 30 days notification is required because that is the time allotted

to appeal through the state statute and city ordinance. Chairman Bray added that it's 30 days from this panel, from the date the orders are signed.

Yolanda Arteaga, wife of one of the owner's sons was present for public comment. Ms. Arteaga advised that both owners have since passed away with her mother in law passing away in 2012. The property was vandalized and there was also an arson fire at the property. She advised it took over a year and half for the six juveniles involved to go to court Ms. Arteaga advised that her husband and other family members hired a lawyer and because there is no will, the estate will have to be settled before any action can be taken on any of the properties they have and that is where this issue on the property stands at this time. Ms. Arteaga also advised that her husband could not be present as he is out of town. Ms. Arteaga provided an affidavit and asked if there were any questions to contact Ms. Marlene Gonzalez, the attorney representing the family. The commission was advised that the case is still pending and there is no power of attorney as of yet. Chief Building Inspector Nathan Walsh advised that Ms. Arteaga has no legal standing on this case. Chairman Bray asked Ms. Arteaga what the family proposed to do with the property. She advised that she heard that they wanted to demolish and rebuild the residence again to sell it. Inspector Reyes advised that he was also told the same thing by one of the sons of the owners. Board member Al Jurado asked Inspector Reyes if property has been fenced in and was advised that it was. Mr. Jurado also asked if the property had been vandalized. Inspector Reyes advised that to his knowledge it was not presently, but there were concerns from the neighbors. In addition, Inspector Reyes advised that the property has been cleaned up

Board member Mr. Jimarez requested to keep the department involved as to what was happening to the property. Assistant City Attorney Wendi Vineyard advised that the City can enter the order even though it has to go through the probate court, and the city can demolish it because of the imminent danger. Chairman Bray commented that the board can only address the condition of the property and the recommendations made.

Leslie Canada, Neighborhood Relations Coordinator with the Police Department stated they have received complaints involving this address which included partying going on and not being secured completely. Ms. Canada advised there is safety concern on this property

There was public comment from Mr. Alfredo Cruz who lives at 413 Huerta. Mr. Cruz stated that since the fire on April 14, 2014, he and his wife have been ill due to continuously smelling the aftereffects of the fire. He also stated the neighbor who lives on the north side of the property told him they cannot go through the area. An insurance claim was filed for cleanup on his property. Mr. Cruz also stated that when he contacts the city, he is told they will give the property owner 30 days to take care of the property. Mr. Cruz stated he has contacted the city three times. He stated that when the structure was boarded up it was structurally sound; however, the roof is now very dangerous. Mr. Cruz informed the commission that he is tired of waiting three years for something to get done and asked to take action within 30 days.

**Motion made by Angel Miguel Ochoa, seconded by Al Jurado to accept staff recommendations, unanimously passed.**

The owner has been notified of the property 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 be condemned as substandard and unfit for habitation or use and a hazard to the public health, safety, and welfare.
2. That the structure is not in substantial compliance with the municipal ordinances regulating fire protection, structural integrity, and disposal of refuse.
3. That the Certificate of Occupancy be revoked; and
4. That the structure cannot be rehabilitated; and

5. That the structure be demolished within 30 days; and
  6. That the premises be cleaned within 30 days & maintained clean thereafter.
  7. That upon failure by the owners 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.
- V. Public hearings to determine if the property located at 1130 Del Norte St. in the City of El Paso (legal description on file with the City Clerk) is a dangerous structure and determine if the owner will be ordered to secure, repair, remove or demolish the property. The owner of this property has been identified as Virginia B. Valdiviezo (record owner), and she has been notified of this hearing.

Salvador Reyes, Building Inspector introduced the case to the commission and gave a brief chronology on the history of the property and the condition that it was found in. .

Inspector Reyes informed the commission that work had been done without a permit by the original contractor who is no longer involved with the property. Board member Armando Jimarez asked how much of the demolition was done without a permit. He was advised about 80% of the roof had already been worked on. The commission was also informed that a second contractor applied for a permit but it has not been issued. Chief Building Inspector Nathan Walsh also advised that they applied for a permit but at present there was a hold to address the engineer's trusses. Mr. Walsh stated he has spoken to the contractor who was in the hospital. He recommended that permits be obtained within 30 days and if not, demolish the structure.

Board member Michael Bray asked for a clarification on the staff recommendations. He was advised that staff recommendation stands with 30 days for permits to be obtained for rehabilitation and if not obtained, the structure to be demolished within 30 days.

**Motion made by Angel Miguel Ochoa, seconded by Al Jurado to accept staff recommendations, unanimously passed.**

The owner has been notified of the property 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 be condemned as substandard and unfit for habitation or use and a hazard to the public health, safety, and welfare.
  2. That the structure is not in substantial compliance with the municipal ordinances regulating fire protection, structural integrity, and disposal of refuse.
  3. That the Certificate of Occupancy be revoked; and
  4. To obtain required permits within thirty (30) days, if not;
  5. That the structure be demolished within thirty (30) days; and
  6. That the premises be cleaned within 30 days & maintained clean thereafter.
  7. That upon failure by the owners 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.
- VI. Public hearings to determine if the property located at 1100 Cedar St. in the City of El Paso (legal description on file with the City Clerk) is a dangerous structure and determine if the owner will be ordered to secure, repair, remove or demolish the property. The owners of this property have been identified as Malcolm Hall Webb and Henderson Hall Webb, as trustees of the Malcolm Hall Webb III living Trust (record owners), and they have been notified of this hearing.

Nathan Walsh, Chief Building Inspector introduced the case to the commission and gave a brief chronology on the history of the property and the condition that it was found in.

Veronica Medrano, realtor, representing the interested parties was present for public comment. Ms. Medrano advised that there are investors wanting to buy the properties. She advised there was a pending contract and title and was ready to close on the sale this coming week or on Monday. The commission was advised that the people interested in buying the properties are Albert Dayoub and Edmund Esper. Once they close on the sale of the property, they will see the scope of what work needs to be done and determine what permits need to be obtained.

Board member Armando Jimarez asked Mr. Edmund Esper if he knew about the condition of the property. Mr. Esper stated his plan was to secure and rehabilitate the property to return as how it was before.

Chief Building Inspector Nathan Walsh recommended tabling this case until the next hearing where they can be provided with an update. Larry Nichols, Director of Planning and Inspection recommended for permits to be obtained within a 45 day period. Chairman Michael Bray recommended that the property to be boarded up and secured so not present a hazard to the community. Assistant City Attorney Wendi Vineyard advised the interested buyer does not yet own the property and any orders issued would be to the estate. Mr. Nichols suggested that since there is no provisions that would be made in the orders, then have something set in place to give the city an indication that there is going to be progress in removing these properties from a derelict state. Mr. Nichols added that he would like to see the owner pull a permit for rehabilitation of the property. Mr. Bray stated however, that the owner was not here and there is only a tentative new owner. Until the sale transaction goes through, there is very little the interested parties can do. Mr. Bray suggested putting some type of order for the Webs since they are the representatives of the estate. Board member Mr. Jimarez recommended for the property to be secured, bring this case back to the next meeting, at which time an update on the ownership, permits and rehabilitation of the property is presented. Mr. Bray commented his concerns were that if no action is taken at this point and the sale goes through, the property just sits there and again additional would be given until the next meeting. He also stated that he understood what Mr. Nichols was saying to start the clock and take care of this issue. Mr. Nichols commented that there is a potential new buyer for this property, but until the transaction goes through, he did not want to see this property to be in the prolonged state that it is in. Mr. Nichols asked legal counsel on what action can be taken. Mr. Bray commented that if recommendation was made for demolition within 30 days, it would still give time for new ownership and plans submittal to obtain permits. Ms. Vineyard advised there are already orders from 2010 to board and secure the property. Mr. Esper advised there is a contingency in the contract that if the property is condemned or demolished, the pending contract would be void.

Chief Building Inspector Nathan Walsh advised that the owner died in 2015 and the property was placed in a trust. Chairman Bray suggested reaffirming the original order to board and securing the property within a time frame and if it doesn't get done, then ordering the demolition of the properties within 30 days after that. Mr. Nichols requested that a time frame be set in the orders. Mr. Esper was asked if he understood what was being proposed and he advised that he did. Mr. Dayoub added that they wanted to fence the property, fix each property one individually, rent it out and continue fixing the other properties. Mr. Dayoub stated he did not want the 90 day timeline set for the properties as it would present a problem in rehabilitating the properties all at once. Ms. Vineyard advised for continuance to have the actual owner of the property present and not an estate or a trust.

Chairman Bray repeated the recommendation to continue this case until the next meeting and if nothing is done, to go ahead and order the demolition within 30 days. He asked if there was a motion to continue this case until the next meeting. Mr. Nichols requested that the address for each case be stated as part of the continuation until the next meeting, 1100 Cedar, 2854 Grant,

2862 Grant and 2866 Grant.

**Motion made by Ochoa, seconded by Jimarez to accept staff recommendations to continue items 6, 7, 8, 9 until the next meeting, unanimously passed.**

VII. Public hearings to determine if the property located at 2854 Grant Ave. in the City of El Paso (legal description on file with the City Clerk) is a dangerous structure and determine if the owner will be ordered to secure, repair, remove or demolish the property. The owners of this property have been identified as Malcolm Hall Webb and Henderson Hall Webb, as trustees of the Malcolm Hall Webb III living Trust (record owners), and they have been notified of this hearing.

**Motion made by Ochoa, seconded by Jimarez to accept staff recommendations to continue item 7 until the next meeting, unanimously passed.**

VIII. Public hearings to determine if the property located at 2862 Grant Ave. in the City of El Paso (legal description on file with the City Clerk) is a dangerous structure and determine if the owner will be ordered to secure, repair, remove or demolish the property. The owners of this property have been identified as Malcolm Hall Webb and Henderson Hall Webb, as trustees of the Malcolm Hall Webb III living Trust (record owners), and they have been notified of this hearing.

**Motion made by Ochoa, seconded by Jimarez to accept staff recommendations to continue item 8 until the next meeting, unanimously passed.**

IX. Public hearings to determine if the property located at 2866 Grant Ave. in the City of El Paso (legal description on file with the City Clerk) is a dangerous structure and determine if the owner will be ordered to secure, repair, remove or demolish the property. The owners of this property have been identified as Malcolm Hall Webb and Henderson Hall Webb, as trustees of the Malcolm Hall Webb III living Trust (record owners), and they have been notified of this hearing.

**Motion made by Ochoa, seconded by Jimarez to accept staff recommendations to continue item 9 until the next meeting, unanimously passed.**

X. Public hearings to determine if the property located at 2717 San Diego Ave. in the City of El Paso (legal description on file with the City Clerk) is a dangerous structure and determine if the owner will be ordered to secure, repair, remove or demolish the property. The owners of this property have been identified as Mike Herrera (record owner), and he has been notified of this hearing.

Nathan Walsh, Chief Building Inspector introduced the case to the commission and gave a brief chronology on the history of the property and the condition that it was found in. .

Board member Armando Jimarez asked if this property was located within a historical district and was advised that it was. Board member Al Jurado asked if there had been police reports made involving the property and was advised there were none. Chairman Michael Bray requested that this property be boarded up and secured. Mr. Walsh advised the original orders was that the property be rehabilitated within 60 days, however, the order was appealed and still pending. The owner, Mr. Mike Herrera now wished to instead demolish the property. Mr. Bray asked if the order needing to be reissued and was advised that it was needed.

Assistant City Attorney Sergio Estrada, informed the commission that he had spoken to the Historic Preservation Coordinator and was advised if a demolition order was made, it would be approved. The original order is still pending, however, the request now is for demolition of the

property. Mr. Bray asked if there was any objection to this request. Board member Angel Miguel Ochoa suggested for a new order to be issued. Assistant City Attorney Wendi Vineyard advised the order can be modified or a new order can be issued.

David Ellis, attorney representing the owner Mr. Mike Herrera, advised the owner wants to demolish the property. The board was advised that Mr. Ruben Ponce, hired by the owner, has not reviewed the plan for demolition and needs additional time, 30 days for the submittal of the plan, and another 90 days for the demolition.

Mr. Mike Herrera was present for public comment. Mr. Herrera stated he originally had plans to rehabilitate the property. He was advised by the engineer at the time that they needed to put a one foot concrete on the structure however, after speaking to different contractors and advised that it would be like putting six tons of concrete, he decided against the rehabilitation. Mr. Herrera requested approval for demolition so that the pending legal issue can be resolved between the city attorney, district court and him.

There was discussion on the original request for rehabilitation and the one now for demolition. Mr. Larry Nichols asked if the accessory structure was occupied and was advised by Mr. Herrera that it was not and it was not damaged by the fire. Mr. Herrera stated that the original intent was to rebuild the accessory structure to match the main house. Mr. Bray commented on the roof portion of the accessory structure located under the power line may be an encroachment issue.

Mr. Nichols recommended for demolition of the entire property instead of only a portion of it. Mr. Walsh recommended demolition of the main structure within 30 days, submit plans for rebuilding the main structure within 60 days and if no plans are submitted, that the accessory structure to be demolished and the property cleaned.

Board member Al Jurado recommended if no plans are submitted within 60 days, then demolish the structure. He also stated he would like to see the entire project for the property included in the plans. Board member Ulises Estrada advised that 30 days may not be enough time to take care of the property. Mr. Ellis advised 60 days would be sufficient to take care of the property.

**Motion made by Angel Miguel Ochoa, seconded by Alejandro Ganen to accept staff recommendations, unanimously passed.**

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 November 12th, 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 main structure be demolished within thirty (30) days; and
2. That plans be submitted for anew main structure within sixty (60) days; and
3. If no plans are submitted within sixty (60) days, demolish the accessory structure; and
4. That the premises be cleaned and maintained clean of all weeds, trash, and debris within thirty (30) days and maintained clean thereafter; and
5. 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.

## **XI. Update(s)**

10324 Thor - This item was deleted from the agenda

6002 Antler - Property has been secured, cleaned and mobile home has been removed.

716 Myrtle - The 60 days ordered to take care of the property will end July 6, 2016. As of this date, the owner has not complied with the orders.

5854 Rio Dulce - The rock wall has not yet been repaired and the owner has until July 5, 2016 to comply with the order.

Senior Assistant City Attorney John Batoon gave an update on the property involving 105 Oregon. The board was advised that the owner has filed an appeal and the City of El Paso will be filing their response next week. The court will have a hearing on whether the commission had the authority to issue the order. City staff is trying to work with the two tenants, on relocating them. Letters to the tenants to vacate the property within 30 days have been sent. The city will continue conducting the inspections on the property. Mr. Batoon stated the appeal is to contend if the order is illegal and on the appropriateness of the fine. The owner will have to prove the allegation that the order is illegal. Mr. Batoon advised as the case progresses, an update would be provided to the commission.

Mr. Bray commented that the order to remove the tenants was based on the fact that the building is unsafe to occupy the property regardless of the fact whether the fine is excessive or not. His concern was that the original order was not complied with. Mr. Bray also commented that a decision was made that the clock was going to stop on the \$1000.00 a day and that they were only going to assess the fine for 2,158 days. He asked how difficult would it be for the commission to make the clock continue to run. Batoon advised a new case must be filed for lack of compliance from the time of the order from the 2016 order. The commission had already imposed a penalty for the noncompliance of the 2010 order from the date it was started, 60 days from the original order going forward, to the date of the hearing and the subsequent order. The city has the ability to come back and state that they have failed to comply from the time of the last order and assess additional penalties.

Chairman Bray advised his concern was that the commission issued an order for an unsafe structure and that nothing has been done and he did not want to keep revisiting this issue. He asked for the city staff to work on taking action. Mr. Batoon advised that even with the appeal, the city make take enforcement action. He stated that state law provides that the city taking enforcement action is not abated by the appeal. The owner has filed the appeal but the city may go forward on the enforcement action. Mr. Nichols informed the commission that once the 30 day order for the owner to board and secure the property has not been complied with, the city will pull off the electric meter. However, other issues are involved, so it was necessary to help the tenants on the relocation effort before the electric meter is pulled. Otherwise, pulling the electric meter before relocating would leave the tenants unable to conduct their business. He also informed the commission there will be a follow up inspection on Tuesday, August 2, 2016. If no progress has been done, then a request will be made to pull the electric meter and the tenants will have to leave the property and the certificate of occupancy would be revoked.

Chairman Bray asked if the city was being forced to incur the expense of the relocation rather than putting that responsibility on the person who caused the issue. He asked if the expenses for relocation and city staff were added to the fine or was the city going to be reimbursed. He also added will the burden be on the taxpayer because of this case going through the court rather than coming into compliance which could have been done so six years ago. Mr. Batoon advised that ordinance requires the city to attempt to relocate the tenants. The city does not have the financial burden to do it and is not required to relocate them at the city's cost. The city is proceeding with the actual eviction and relocation. It is up to the owner to help them relocate or not but whether the owner will help or not is not the city's responsibility. Mr. Bray commented that he would want to see the city move forward on this case and be consistent with taking

action. He added that the city will work with the property owners but if they choose not to comply with the rules and orders, then the city needs to move forward and proceed. Mr. Batoon stated that in regards to the appeal, the city will ask that this case be expedited as quickly as possible. Assistant City Attorney Wendi Vineyard informed the commission that the original order did revoke the certificate of occupancy but it was never enforced. Mr. Batoon stated that the 2016 order restated that.

Mr. Ulises Estrada was introduced as a new member to the Building Standards Commission.

Mr. Nichols informed the board that the Vacant Building Ordinance is being presented to a number of stakeholders, citywide including the Chamber of Commerce and contractors and stated that it is part of the city wide effort to inform everyone on the proposed changes.

## **XII. Adjournment**

**Motion to adjourn this meeting was unanimously carried. The meeting adjourned at 7:30 p.m.**

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Michael Bray  
Chairman

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Nathan Walsh  
Chief Building Inspector, CBO