

548 Center Way



BUILDING AND STANDARDS BOARD AGENDA ITEM # 4 FOR
WEDNESDAY, September 30, 2015

Planning & Inspections Department
Building Safety Division

MEMORANDUM
September 30, 2015

TO: The Honorable Chairman and Board Members

THROUGH: Victor Morrison-Vega, Deputy Director, City Development Department

FROM: Ron Roth, C.B.O., Deputy Building Official

SUBJECT: 548 Center Way, El Paso, Texas, 79907

On July 29, 2015, 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 board and secure the main front dwelling unit within thirty (30) days, submit an structural engineer's report within sixty (60) days and submit a financial responsibility letter and cost report within sixty (60) days of July 29, 2015. The owners of said property are hereby ordered to appear again 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 set for September 30, 2015 to determine if the Building and Standards Commission orders of July 29, 2015 have been complied with and if not to determine penalties. Certified notices of the public hearing scheduled for September 30, 2015, were mailed to the owners and all interested parties on September 16, 2015.

The owners have been notified of the violations at this property, and have received a copy of the Building and Standards Commission order dated July 29, 2015 of the need to board and secure the main front dwelling unit within thirty (30) days, submit an structural engineer's report within sixty (60) days and submit a financial responsibility letter and cost report within sixty (60) days of July 29, 2015. To date the engineer's report or the financial responsibility letter have not been submitted, therefore the department recommends that it be found:

- 1) That the structure and both apartments be condemned as substandard and unfit for habitation or use and a hazard to the public health, safety, and welfare.
- 2) That the structure and both apartments are 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 and both apartments cannot be rehabilitated; and
- 5) That the structure and both apartments be demolished within 30 days;
- 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

NOTICE OF PUBLIC HEARING

To All Interested Parties:

You are hereby notified that at 5:30 p.m. on the 30th day of September, 2015 in El Paso City Hall, Council Chambers, 300 N. Campbell, 1st Floor El Paso, Texas 79901, the Building and Standards Commission of El Paso will hold a public hearing on the question of whether the building located on the property at 548 Center Way, in El Paso, Texas, which property is more particularly described as:

Legal Description: Lot 1, Block 6, North Loop Gardens #1, an addition to the City of El Paso, El Paso County, Texas, according to the Plat thereof recorded in Volume 15, Page 10, Plat Records of El Paso County, Texas

and which is subject to that certain Building and Standards Commission Order dated July 29, 2015 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 Apolonia Keese, Martha Gonzalez are listed as the Owners of the real property described herein.

The Owners were ordered to board and secure the main front dwelling unit within thirty (30) days, submit an structural engineer's report within sixty (60) days and submit a financial responsibility letter and cost report within sixty (60) days of July 29, 2015. The Owners of said property are hereby ordered to appear again 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 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 shows that the property is the Owners' 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 and Safety Division of the Planning & Inspections Department, 801 Texas, El Paso, Texas 79901,, 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:

Wendi N. Vineyard
Assistant City Attorney

Ron Roth, C.B.O.
Deputy Building Official

I, RICHARDA DUFFY MOMSEN, City Clerk of the City of El Paso, hereby certify that a true and correct copy of the foregoing Notice of Public Hearing regarding the property located at 548 Center Way, El Paso, TX 79915 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 _____ 2015 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 _____ 2015.

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 located at 548 Center Way, El Paso, TX 79915 was PUBLISHED in the official City newspaper on the day of _____, 2015.

Richarda Duffy Momsen

I certify that a true and correct copy of the foregoing Notice regarding the property at 548 Center Way, El Paso, TX 79915 was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Martha Gonzalez
8601 Holmsley Trail
El Paso, Texas 79907

Date: _____
Time: _____
Inspector _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 548 Center Way, El Paso, TX 79915 was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Apolonia Keese
548 Center Way Apt. #10
El Paso, Texas 79915-3033

Date: _____
Time: _____
Inspector _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 548 Center Way, El Paso, TX 79915 was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Sandra Legarda
548 Center Way Apt #11
El Paso, Texas 79915-3033

Date: _____
Time: _____
Inspector _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 548 Center Way, El Paso, TX 79915 was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

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

Date: _____
Time: _____
Inspector _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 548 Center Way, El Paso, TX 79915 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 548 Center Way, El Paso, TX 79915 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 548 Center Way, El Paso, TX 79915 was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

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

Date: _____
Time: _____
Inspector _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 548 Center Way, El Paso, TX 79915 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 548 Center Way, El Paso, TX 79915.

Date: _____
Time: _____
Inspector _____

ORDER No. ENHS14-00029
OF THE CITY OF EL PASO BUILDING AND
STANDARDS COMMISSION

An order of the Building and Standards Commission (the “Commission”) abatement of the substandard and dangerous structure located at 548 Center Way, EL PASO, TEXAS 79915-3033 also described as A portion of Lot 1, Block 6, North Loop Gardens #1, an addition to the City of El Paso, El Paso County, Texas, according to the Plat thereof recorded in Volume 15, Page 10, Plat Records of El Paso County, Texas

WHEREAS, the Commission finds that proper notice has been provided as required by Chapter 2.38 of the El Paso City Code to the identified interested parties identified as: Apolonia Keese, Sandra L. Legarda and Susana Duran herein after collectively referred to as the “Owner(s)”; and

WHEREAS, Apolonia Keese, Sandra L. Legarda, Susana Duran and Sal Varela did appear; and

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

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

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

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

1. The Owners are hereby ordered to:
 - a. Board and secure the main front dwelling unit within thirty (30) days; and
 - b. Submit an structural engineer’s report within (60) days as to the rehabilitation feasibility of the structure; and
 - c. Submit a financial responsibility letter and cost report within (60) sixty days; and
 - d. Clear the Property of all weeds, trash, and debris within sixty (60) sixty days from the date of this Order and maintain the property clear of all weeds, trash, and debris thereafter;

- e. All work performed at the Property must be done in compliance with all applicable sections of the El Paso City Code and state and federal regulations and statutes.
2. Alternatively, if the Owners fail to comply with this Order, the City of El Paso, through the Building and Safety Division of the Planning and Inspection Department, may:
 - a. Demolish the structure; and
 - b. Clear the Property of all weeds, trash and debris;
 - c. Seek reimbursement from the Owners for the cost of complying with this order and that the expense if not satisfied, shall result in a lien being placed against the Property.
4. **When this Order has been filed in the real property records of El Paso County it is binding on subsequent grantees, lienholders, or other transferees of an interest in the Property.**
5. **REHEARING:** a person affected by this order may request a rehearing by the same Commission panel that issued this Order. Only ONE hearing may be requested. The Building and Standards Commission may grant a rehearing only under the following circumstances:
 - A. *Proper request is made within thirty (30) days of receipt of notice of the Order of the Commission; and*
 - B. *No appeal of this Order has been taken as allowed pursuant to paragraph 6, below; and*
 - C. *Rehearing fees of five hundred and forty dollars (\$540.00) are furnished with the rehearing request. The rehearing request shall state the basis for requesting the rehearing. The Building and Standards Commission may waive these fees in cases of financial hardship based on written affirmation from the applicant.*
6. **RIGHT TO APPEAL:** *The decision of the Building and Standards Commission is the final administrative remedy. An appeal may be filed by verified petition in State District Court, Petition for appeal must be within thirty (30) days of receipt of this Order. All appeals to the district court will be heard de novo.*

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

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

This Order is considered Adopted and Entered upon the signed date and signature of the Chairman of the Building and Standards Commission Chairman.

**ADOPTED on this _____ day of _____,
2015.**

BUILDING AND STANDARDS COMMISSION

Jesse A. Sanchez, Chairman, Panel A

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Wendi N. Vineyard
Assistant City Attorney

Ron Roth, CBO
Deputy Building Official