

804 MYRTLE



BUILDING AND STANDARDS BOARD AGENDA ITEM #4 FOR
WEDNESDAY, October 03, 2012

ENVIRONMENTAL SERVICES DEPARTMENT
CODE COMPLIANCE DIVISION

MEMORANDUM

September 25, 2012

TO: The Honorable Chairman and Board Members

THROUGH: Kurt Fenstermacher, Deputy Director, Code Compliance Division

FROM: Bill Stern, Deputy Building Official

SUBJECT: 804 Myrtle Avenue, El Paso, Texas, 79901

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

- 1) First investigated on August 1, 2012. This mixed use non separated commercial / residential structure was built in 1920, according to Central Appraisal records, constructed of brick walls with stucco coating and CMU block with wood framed roof structure. The structure was 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 defects throughout the structures. The roof and ceiling assembly has declined into an advanced state of disrepair; and is failing in the main structure allowing natural light to seep through. The plumbing, electrical and mechanical systems are not adequate and do not meet the minimum code requirements. The property is full of weeds, trash and debris.
- 2) A certified condemnation letter was mailed to, Augustin C. Rodriguez and Harold J. Hensley
- 3) Certified notices of the public hearing scheduled for October 3, 2012, were mailed to the owners and all interested parties on September 12, 2012.
- 4) As of September 19, 2012, \$11,754.74 in taxes is 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 structure is 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 structures' certificate of occupancy be revoked; and
- 4) That the structure cannot be rehabilitated; and
- 5) That the structure 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
Aug, 07, 2012

NOTICE OF VIOLATION

Augustin C. Rodriguez
Harold J. Hensley
804 Myrtle
El Paso, TX 79901

Re: 804 Myrtle
Blk: 215 Campbell
Lot: 18 & PT of 17 NWC
Zoned: C-4
ENHS12-00382
7108 2133 3932 7221 7799

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, Title 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 Title 2.38 of the Municipal 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 **804 Myrtle Ave. El Paso, TX. 79901** 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. All *exterior property, accessory structures* and *premises* shall be maintained in a clean, safe and sanitary condition, All accessory structures, including *detached* garages, fences and walls, shall be maintained structurally sound and in good repair. [Sec. 302.1, 302.2, 302.3, 302.4, 302.5, 302.6, 302.7, 302.8, 302.9]
- b. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare. [Sec. 304.1, 304.1.1 conditions 1,2,3,4,5,6,7,8,9,10,11,12,13, 304.2, 304.3, 304.4, 304.5, 304.6, 304.7, 304.8, 304.9, 304.10, 304.11, 304.12, 304.13, 304.14, 304.15, 304.16, 304.17, 304.18]
- c. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. [Sec. 305.1, 305.2, 305.3, 305.4, 305.5, 305.6]
- d. The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. [Sec. 306.1, 306.1.1 conditions 1,2,3,4,5,6,]
- e. All *exterior property* and *premises*, and the interior of every structure, shall be free from any accumulation of *rubbish* or garbage. [Sec. 308.1, 308.2, 308.2.1, 308.2.2, 308.3, 308.3.1, 308.3.2]
- f. The building must comply with the minimum criteria and conditions for light. [Sec.402.1, 402.2, 402.3]
- g. The building must comply with the minimum criteria of the provisions for required facilities. [Sec. 502.1, 502.2, 502.3, 502.4,502.4.1, 502.5]
- h. The building must comply with the minimum criteria of the provisions for plumbing systems and fixtures. [Sec. 504.1, 504.2, 504.3]
- i. The building must comply with the minimum criteria of the provisions for water systems. [Sec. 505.1, 505.2, 505.3, 505.4]
- j. The building must comply with the minimum criteria of the provisions for heating facilities. [Sec. 602.2, 602.3, 602.4, 602.5]
- k. All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and *approved* manner. [Sec. 605.1, 605.2, 605.3]

- l. Means of egress & Emergency escape opening - A safe, continuous and unobstructed path of travel has not been provided from all points in the building or structure to the *public way*. [Sec. 702.1, 702.2, 702.3, 702.4]
- m. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times. [Sec. 704.1, 704.1.1, 704.2, 704.3, 704.4]
- n. 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]

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 Title 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.

Roger Iveson
Chief Building Inspector

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: October 3, 2012

TIME: 5:30 p.m.

PROPERTY: 804 MYRTLE AVENUE, EL PASO, TEXAS also described as Lot 18, Block 215, CAMPBELL ADDTION an addition to the City of El Paso, 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, Augustin C. Rodriguez and Harold J. Hensley, 804 Myrtle Avenue, El Paso, TX 79901-1512 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 August 1, 2012 an inspection of the Property was conducted by the Environmental Services Division and the following violations were identified:

- a. All exterior property, accessory structures and premises shall be maintained in a clean, safe and sanitary condition, All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair. [Sec. 302.1, 302.2, 302.3, 302.4, 302.5, 302.6, 302.7, 302.8, 302.9]
- b. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare. [Sec. 304.1, 304.1.1 conditions 1,2,3,4,5,6,7,8,9,10,11,12,13, 304.2, 304.3, 304.4, 304.5, 304.6, 304.7, 304.8, 304.9, 304.10, 304.11, 304.12, 304.13, 304.14, 304.15, 304.16, 304.17, 304.18]

- c. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. [Sec. 305.1, 305.2, 305.3, 305.4, 305.5, 305.6]
- d. The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. [Sec. 306.1, 306.1.1 conditions 1,2,3,4,5,6]
- e. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage. [Sec. 308.1, 308.2, 308.2.1, 308.2.2, 308.3, 308.3.1, 308.3.2]
- f. The building must comply with the minimum criteria and conditions for light. [Sec.402.1, 402.2, 402.3]
- g. The building must comply with the minimum criteria of the provisions for required facilities. [Sec. 502.1, 502.2, 502.3, 502.4,502.4.1, 502.5]
- h. The building must comply with the minimum criteria of the provisions for plumbing systems and fixtures. [Sec. 504.1, 504.2, 504.3]
- i. The building must comply with the minimum criteria of the provisions for water systems. [Sec. 505.1, 505.2, 505.3, 505.4]
- j. The building must comply with the minimum criteria of the provisions for heating facilities. [Sec. 602.2, 602.3, 602.4, 602.5]
- k. All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner. [Sec. 605.1, 605.2, 605.3]
- l. Means of egress & Emergency escape opening - A safe, continuous and unobstructed path of travel has not been provided from all points in the building or structure to the public way. [Sec. 702.1, 702.2, 702.3, 702.4]
- m. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times. [Sec. 704.1, 704.1.1, 704.2, 704.3, 704.4]
- n. 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]

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

John R. Batoon
Assistant City Attorney

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

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 804 Myrtle 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 804 Myrtle Avenue, was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Augustin C. Rodriguez
804 Myrtle Avenue
El Paso, TX 79901-1512

Date: _____
Time: _____
Inspector: _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 804 Myrtle Avenue, was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Harold J. Hensley
804 Myrtle Avenue
El Paso, TX 79901-1512

Date: _____
Time: _____
Inspector: _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 804 Myrtle Avenue, 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 804 Myrtle 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 804 Myrtle 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 804 Myrtle 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 804 Myrtle 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
804 Myrtle Avenue, El Paso, Texas.

Date: _____

Time: _____

Inspector: _____



UNSAFE STRUCTURES REPORT

BUILDING PERMITS AND INSPECTIONS

DATE OF EXAMINATION: 09/11/12

REP. DISTRICT: 8

ADDRESS: 804 Myrtle AVE.
El Paso, TX. 79901

ZONED: C-4

LEGAL DESCRIPTION: 215 Campbell 18 & PT of 17 NW

OWNER: Augustin C. Rodriguez
Harold J. Hensley

ADDRESS: 804 Myrtle AVE.
El Paso, TX. 79901

BUILDING USE: Residential And Commercial

TYPE OF CONSTRUCTION: CMU and Brick

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: Shallow Foundation

CONDITION: Poor The foundation wall is in disrepair due to lack of maintenance.

FLOOR STRUCTURE: Slab On Grade and Wood framed floor system

CONDITION: Wood framed floor system is in poor condition.

EXTERIOR WALLS: CMU, Brick with Stucco Finish

HEIGHT: 12- 15 feet +/-

THICKNESS: 6'' to 8'' +/-

CONDITION: Poor, Holes and through penetrations in multiple locations of exterior walls.

INTERIOR WALLS & CEILINGS: Wood framed

CONDITION: Poor, interior wall and ceiling finishes are missing in many locations due to lack of maintenance.

ROOF STRUCTURE: Wood framed

CONDITION: Dilapidated, the roof structure is in an advanced state of disrepair due to prolonged exposure to the elements.

DOORS, WINDOWS, ETC.: Metal doors and aluminum cased windows

CONDITION: Poor, Broken glass, Missing hardware

MEANS OF EGRESS: Non sufficient

CONDITION: Obstructed path of egress, front door locked in shut position, passage set is missing.

PLUMBING: Inadequate

ELECTRICAL: Inadequate

MECHANICAL: Inadequate

IF CONDEMNED, HOW MANY PERSONS WILL BE AFFECTED:

WARNING POSTED:

BARRICADED:

POLICE AID REQD.:

REMARKS: Vagrants are frequenting this structure.

The structure remains open and accessible.

Building Inspector

Roger Iveson

Appraisal & Collection Technologies - EL PASO

Action Edit Query Record Field Help Entitlements Accounts Statements Window

ORACLE

Account Status

Prev_Acc... Next_Acc... Prev_Owner Next_Owner Acct History Acct Summary **Notes** Go To: _____

EVAR
ACT8006 v1.221 09/19/2012 11:22:41
ACTEP

STATUS DETAIL Expand Fees Summary

Account Information

Account No. **C050-999-2150-8500** Roll Code REAL PROPRT

Certified Owner RODRIGUEZ AUGUSTIN C

Parcel Address 804 MYRTLE AVE

Amount Due as of 09/19/2012 CAD No. 97187

Tax Units Tax Unit Description

List of Tax Units 1 3 6 7 8 9009 9089

AG INCLUDED Remove Fees Countywide **Multi Select**

Tax Unit, Yr, Rec. Type

Tax Unit _____
Year _____
Rec. Type _____

Amount Due/Paid Information

Year	Gross Value	H	O	V	D	Base Levy	Paid Levy	Write-Off	Remaining Levy	Fees	Refund	Amount Due
2011	\$96,114					\$2,462.84	\$0.00	\$0.00	\$2,462.84	\$1,072.55	\$0.00	\$3,535.39
2010	\$93,910					\$3,059.77	\$0.00	\$0.00	\$3,059.77	\$1,382.58	\$0.00	\$4,442.35
2009	\$87,999					\$2,192.34	\$0.00	\$0.00	\$2,192.34	\$1,584.66	\$0.00	\$3,777.00
2008	\$84,760					\$2,117.97	\$2,117.97	\$0.00	\$0.00	\$189.91	\$0.00	\$0.00
2007	\$108,955					\$2,744.69	\$2,744.69	\$0.00	\$0.00	\$411.71	\$0.00	\$0.00
2006	\$64,295					\$1,860.83	\$1,860.83	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2005	\$56,817					\$1,774.06	\$1,774.06	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2004	\$55,222					\$1,715.31	\$1,715.31	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2003	\$55,464					\$1,677.92	\$1,677.92	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Totals						\$28,050.96	\$20,336.01	\$0.00	\$7,714.95	\$4,641.41	\$0.00	\$11,754.74

Last Payment Date _____ Last Payer _____

Alert

10:22 AM
9/19/2012