

2702 PORTER AVENUE



BUILDING AND STANDARDS BOARD AGENDA ITEM # 8 FOR
WEDNESDAY, OCTOBER 3, 2012

ENVIRONMENTAL SERVICES DEPARTMENT
CODE COMPLIANCE DIVISION

MEMORANDUM

September 25, 2012

TO: The Honorable Chairman and Board Members

THROUGH: Kurt Fenstermacher, Deputy Director, Environmental Services Department

FROM: Bill Stern, Deputy Building Official

SUBJECT: 2702 Porter Avenue, El Paso, Texas 79930

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

On July 25, 2012, 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 within thirty (30) days and to clear the premises of all weeds, trash and debris within thirty (30) days and maintain the premises clear of all weeds, trash and debris thereafter. That the owners provide an engineer's assessment of the structural conditions of the building to show if it is feasible to repair, provide financing information to achieve rehabilitation. To submit building plans and scope of work within sixty (60) days and to submit regular progress reports to the Building and Standards Commission. That the owners appear at a hearing scheduled for October 3, 2012 to determine if the Building and Standards Commission orders of July 25, 2012 have been complied with and if not to determine penalties. Certified notices of the public hearing scheduled for October 3, 2012, were mailed to the owners and all interested parties on September 20, 2012.

The owners have been notified of the property maintenance violations at this property and have been provided a copy of the Building and Standards Commission order dated July 25, 2012, to date the structure openings have been secured with plywood; an engineer's report has been submitted; the rehabilitation plans have been presented to the Chief Building Official Bill Stern and premises have been maintained. Therefore the Department recommends:

- 1) That regular progress reports be submitted to the Building and Standards Commission at the next meeting to be held on November 28, 2012.

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: 2702 PORTER AVENUE, EL PASO, TEXAS also described as Lots 29 and 30 in Block "F" of the GRANDVIEW ADDITION to the City of El Paso, El Paso County, Texas, known and numbered as 2702 Porter Avenue, in the City of El Paso, 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, Tomasa Ramirez, 8313 Roseway Drive, El Paso, TX 79907-5219 is the owner, herein after referred to as the "Owner" 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 July 25, 2012 the Building and Standards Commission ordered the owners and interested parties to appear before the Building and /Standards Commission with the following:

- a. Secure the structure located on the Property within thirty (30) days from the date of this Order;
- b. Clear the Property of all weeds, trash, and debris within thirty (30) days from the date of this Order and maintain the property clear of all weeds, trash, and debris thereafter;

- c. Provide an engineer's assessment of the structural conditions of the building to show if it is feasible to repair; provide financing information to achieve rehabilitation; to submit building plans and scope of work within sixty (60) days and to submit regular progress reports to the Building and Standards Commission;

The Owner is 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 Owner fails 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 2702 Porter 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 2702 Porter Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Tomasa Ramirez
8313 Roseway
El Paso, Texas 79907-5219

Date: _____

Time: _____

Inspector: _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 2702 Porter 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 2702 Porter 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 2702 Porter 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 2702 Porter 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 2702 Porter 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 2702 Porter Avenue El Paso, Texas.

Date: _____

Time: _____

Inspector: _____

ORDER No. ENHS11-00432
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 2702 Porter Avenue; Legal Description: Lots 29 and 30 in Block “F” of GRANDVIEW ADDITION to the City of El Paso, El Paso County, Texas (herein after referred to collectively as the “Property”).

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: Tomasa Ramirez, 8313 Roseway Drive, El Paso, Texas, 79907-5219 “herein after collectively referred to as the “Owners”; and

WHEREAS, the interested parties did not appear in person; however, Eduardo Ramirez spouse of Tomasa Ramirez appeared; 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. Secure the structure located on the Property within thirty (30) days from the date of this Order;
 - b. Clear the Property of all weeds, trash, and debris within thirty (30) days from the date of this Order and maintain the property clear of all weeds, trash, and debris thereafter;
 - c. Provide an engineer’s assessment of the structural conditions of the building to show if it is feasible to repair; provide financing information to achieve rehabilitation; to submit building plans and scope of work within sixty (60) days and to submit regular progress reports to the Building and Standards Commission;
 - d. 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.

1. That the Building and Standards Commission hereby orders the structure's certificate of occupancy revoked.
 - a. Alternatively, if the Owners fail to comply with this Order, the City of El Paso, through the Code Compliance Division of the Environmental Services Department, may:
 - b. Secure the structure; and
 - c. Clear the Property of all weeds, trash and debris;
 - d. Seek reimbursement from the Owners for the cost of complying with this
 - i. order and that the expense if not satisfied, shall result in a lien being
 - ii. 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 twenty (20) 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.

ADOPTED on this 25th day of July, 2012.

BUILDING AND STANDARDS COMMISSION

Robert C. Filarski Chairman, Panel A

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