

# 2731 PORTLAND



BUILDING AND STANDARDS BOARD AGENDA ITEM # 5 FOR  
WEDNESDAY, OCTOBER 29, 2008

DEVELOPMENT SERVICES  
BUILDING PERMITS AND INSPECTIONS

MEMORANDUM  
October 21, 2008

TO: The Honorable Chairman and Board Members

THROUGH: Victor Q. Torres – Director for Development Services Department

FROM: Bill Stern, C.B.O., Chief Building Inspector

SUBJECT: 2731 Portland Ave.

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

- 1) First investigated September, 2001. The building was found to be open and abandoned and in an advanced state of disrepair. The building was being entered and being used as a harborage by unwanted persons. The building was ordered by city council to be secured and maintained secured and clean until rehabilitated. The building continued to deteriorate and was constantly being entered by unwanted persons. As a result of the building continuing to be an attractive nuisance the building was presented to the Building and Standards Commission and was condemned to be demolished on December 20<sup>th</sup> 2006. The building was foreclosed on by the city for outstanding taxes in February 2008.
- 2) Mr. Ray Rutledge representing the El Paso Preservation Alliance appeared at the hearing of August 27, 2008. Staff recommended that the demolition order of the Building and Standards Commission of December 20<sup>th</sup> 2006 be stayed for 60 days to allow the El Paso Preservation Alliance time to obtain title to the property and supply the required documents to the commission to demonstrate that the structure could be repaired. Certified notices of the public hearing scheduled for October 29<sup>th</sup>, 2008 were mailed to the owners and all interested parties on October 14<sup>th</sup>, 2008.

The owner and the representative have been notified of the property maintenance violations at this property, to date there has been no corrective action taken, therefore the Department recommends that it be found:

- 1) That the Building and standards Commission order of August 27<sup>th</sup>, 2008 has not been complied with; and
- 2) That all the required documents for the buildings rehabilitation have not been submitted to development services department within 30 days; and
- 3) That the building has not been maintained secure and clean; and
- 4) That the building be demolished within 30 days; 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.

## **NOTICE OF PUBLIC HEARING**

To All Interested Parties:

You are hereby notified that at 5:30 p.m. on the **29th** day of **October, 2008** in the Council Chambers of City Hall, #2 Civic Center Plaza, El Paso, Texas, the Building and Standards Commission of El Paso (the "**Commission**") will hold a public hearing on the question of whether the buildings located on the property at **2731 Portland Avenue**, in El Paso, Texas, which property is more particularly described as:

**LEGAL DESCRIPTION: Lots 31 and 32, in Block 39, MANHATTAN HEIGHTS ADDITION to the City of El Paso, Texas, also known and numbered as 2731 Portland Avenue, El Paso, Texas.**

and which is subject to Building and Standards Commission Orders dated **August 27, 2008** (the "**previous orders**") has been brought into compliance with said Orders, and if not to determine penalties.

According to the real property records of the County of El Paso, Texas, **The City of El Paso is listed as the Trustee** of the real property described herein.

The Owners of said property are hereby ordered to appear 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 orders 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 Owner 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 show that the property is the Owner's 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 Standards Enforcement Division of the Building Permits and Inspections, 5<sup>th</sup> floor, City Hall, no later than the 20<sup>th</sup> 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:

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Mark Shoesmith  
Assistant City Attorney

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Bill Stern, C.B.O.  
Chief Building Inspector  
Building Permits and Inspection Department

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 **2731 Portland Avenue.** was PUBLISHED in the official City newspaper on the \_\_\_\_day of \_\_\_\_\_, 2008.

Richarda Duffy Momsen

I certify that a true and correct copy of the foregoing Notice regarding the property at **2731 Portland Avenue.** was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Juan Sandoval  
2 Civic Center Plaza  
El Paso Texas 79901

Date:  
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at **2731 Portland Avenue.** was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

El Paso Preservation Alliance  
P.O. Box 3670  
El Paso Texas 79923-3670

Date:  
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at **2731 Portland Avenue.** was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Raymond P. Rutledge  
2734 Silver Avenue  
El Paso, Texas 79930

Date:  
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at **2731 Portland 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 **2731 Portland 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 **2731 Portland 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 **2731 Portland 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 **2731 Portland 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 **2731 Portland Avenue**, El Paso, Texas.

Date:

Time:

Inspector

**ORDER OF THE BUILDING AND STANDARDS**  
**COMMISSION OF THE CITY OF EL PASO**

**WHEREAS**, the Deputy Director for Development Services of the City of El Paso has conducted an investigation and has reported to the Building and Standards Commission in writing that he is of the opinion that the structure located on the property at **2731 Portland Avenue**, in El Paso, Texas, which property is more particularly described as follows:

**LEGAL DESCRIPTION: Lots 31 and 32, in Block 39, MANHATTAN HEIGHTS ADDITION to the City of El Paso, Texas, also known and numbered as 2731 Portland Avenue, El Paso, Texas.**

are dilapidated, substandard, and unfit for human habitation; are a hazard to public health, safety, and welfare; does not meet the minimum standards for continued use and occupancy contained in 18.50 of the El Paso City Code; and

**WHEREAS**, the City of El Paso listed as the Trustee, record Owner, and all mortgages and lienholders were duly notified according to law to appear at a public hearing before the Building and Standards Commission at 5:30 p.m. on August 27, 2008; and

**WHEREAS**, Ray Rutledge, representative for the El Paso Preservation Alliance appeared.

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

1. That having heard the evidence, and being persuaded by a preponderance of same, the Building and Standards Commission makes the following findings:
  - A. That the structures located on said property are an urban nuisance; and
  - B. That the structures located on said property are currently unsafe, substandard, unfit for human habitation or use, and therefore a hazard to the public health, safety, and welfare; and
  - C. That the structures are not in substantial compliance with municipal ordinances regulating structural or service systems integrity and disposal of refuse; and
  - D. That in order to be made safe, all of the aforementioned violations must be corrected.

2. That the Building and Standards Commission hereby orders the structure's certificate of occupancy revoked and the Owners to comply with the following requirements:
  - A. That the Building and Standards Commission order of December 20, 2006 to demolish the building be stayed; and
  - B. That the Building and Standards Commission determined the length of time to stay the demolition order be for sixty (60) days; and
  - C. That all the required documents for the buildings rehabilitation be submitted to the Development Services Department within 30 days; and
  - D. That the building be maintained secured and clean until rehabilitated; and
  - E. That a hearing be scheduled to determine if the structure can be repaired.
3. That upon failure of the Owner(s) to comply with this Order, any mortgagees, lienholders, and/or other persons having an interest in the property have an additional ten (10) days to clear the property of all weeds, trash, and debris and secure all the structures on the property.
4. That upon failure of the Owner(s), mortgagees, lienholders, and/or any other person having an interest in the property to comply with this Order, the City of El Paso, through its Director for Building Permits and Inspections, shall:
5.
  - A. Schedule a rehearing to determine what action to take; and
  - B. Clean the property of all weeds, trash and debris; and
  - C. Assess the cost of the work noted above as a lien against the property which will become due and payable within thirty (30) days of the date the City of El Paso completes the work; and
  - D. Provide for any other remedies permitted by State law.
5. That upon failure of the Owners to comply with this Order, the City of El Paso through its Director for Building Permits and Inspections may request a hearing before the Building and Standards Commission to:
  - A. Determine the amount and duration of civil penalties the City of El Paso may recover for failure to comply with this Order as allowed by Texas Local Government Code Chapter 54; and
  - B. Provide any other remedies permitted by State law.

6. When this Order has been filed in the deed records of the county in which the property that is the subject of this Order is located, execution of this Order shall not be affected by a sale or other transfer of such property. Any person or entity acquiring an interest in such property after this Order has been so filed is subject to the requirements of this Order.
7. **RIGHT TO APPEAL:** *The decision of the Building and Standards Commission is final (see discussion of rehearing, below). An appeal may be filed by verified petition in State District Court, setting forth that the decision of the Commission is illegal, in whole or in part, and specifying the grounds of the illegality. Petition for appeal must be filed by the owner(s) or interested party within twenty (20) days of receipt of notice of the Order of the Commission. Appeals in District Court are limited to hearings under the substantial evidence rule.*

*A rehearing by the Building and Standards Commission may only be granted in the following circumstances:*

- A. *Proper request is made within twenty (20) days of receipt of notice of the Order of the Commission; and*
- B. *Rehearing fees of five hundred and forty dollars (\$540.00) are furnished with the rehearing request. The Building and Standards Commission may waive these fees in cases of financial hardship based on written affirmation from the applicant.*

**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 twentieth (20<sup>th</sup>) 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 27<sup>th</sup> day of August, 2008.**

BUILDING AND STANDARDS COMMISSION

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Jimmy Stevens, Acting Chair, Panel B

APPROVED AS TO FORM:

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Mark Shosmith  
Assistant City Attorney  
  
Inspection Division

APPROVED AS TO CONTENT:

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Bill Stern, C.B.O., Chief Building Inspector  
Development Services Department  
Building Permits &

**ORDER OF THE BUILDING AND STANDARDS**  
**COMMISSION OF THE CITY OF EL PASO**

WHEREAS, the Director for Building Permits and Inspections of the City of El Paso has conducted an investigation and has reported to the Building and Standards Commission in writing that he is of the opinion that the structure located on the property at **2731 Portland Ave.**, in El Paso, Texas, which property is more particularly described as follows:

**LEGAL DESCRIPTION: Lots 31 and 32, in Block 39, MANHATTAN HEIGHTS ADDITION to the City of El Paso, Texas, also known and numbered as 2731 Portland Avenue, El Paso, Texas**

is dilapidated, substandard, and unfit for human habitation; is a hazard to public health, safety, and welfare; does not meet the minimum standards for continued use and occupancy contained in 18.50 of the El Paso City Code; and

WHEREAS, **Marcelino Castillo, 2731 Portland Ave., El Paso, Texas 79930**, record Owner, and all mortgagees and lienholders were duly notified according to law to appear at a public hearing before the Building and Standards Commission at 5:30 p.m. on **December 20, 2006**; and

WHEREAS, no one appeared.

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

1. That having heard the evidence, and being persuaded by a preponderance of same, the Building and Standards Commission makes the following findings:
  - A. That the structures located on said property are an urban nuisance; and
  - B. That the structures located on said property are currently unsafe, substandard, unfit for human habitation or use, and therefore a hazard to the public health, safety, and welfare; and
  - C. That the structures are not in substantial compliance with municipal ordinances regulating structural or service systems integrity and disposal of refuse; and
  - D. That because of the Owner's failure to supply any drawings, plans, or reports to indicate otherwise, the structures cannot be repaired; and
  - E. That in order to be made safe, all of the aforementioned violations must be corrected.

2. That the Building and Standards Commission hereby orders the structure's certificate of occupancy revoked and the Owner to comply with the following requirements:
  - A. That the primary building and all accessory buildings be demolished within thirty (30) days; and
  - B. That the premises be cleaned of all weeds, trash, and debris within thirty (30) days; and
3. That upon failure of the Owner to comply with this Order, any mortgagees, lien holders, and/or other persons having an interest in the property have an additional ten (10) days to clear the property of all weeds, trash, and debris and secure the structure
4. That upon failure of the Owner, mortgagees, lien holders, and/or any other person having an interest in the property to comply with this Order, the City of El Paso, through its Director for Building Permits and Inspections, shall:
  - A. Demolish the primary and accessory structures; and
  - B. Clean the property of all weeds, trash and debris; and
  - C. Assess the cost of the work noted above as a lien against the property which will become due and payable within thirty (30) days of the date the City of El Paso completes the work; and
  - D. Provide for any other remedies permitted by State Law.
5. That upon failure of the Owner to comply with this Order, the City of El Paso through its Director for Building Permits and Inspections may request a hearing before the Building and Standards Commission to:
  - A. Determine the amount and duration of civil penalties the City of El Paso may recover for failure to comply with this Order as allowed by Texas Local Government Code Chapter 54; and
  - B. Provide any other remedies permitted by State law.
6. **RIGHT TO APPEAL:** *The decision of the Building and Standards Commission is final (see discussion of rehearing, below). An appeal may be filed by verified petition in State District Court, setting forth that the decision of the Commission is illegal, in whole or in part, and specifying the grounds of the illegality. Petition for appeal must be filed by the owner(s) or interested party within twenty (20) days of receipt of notice of the Order of the Commission. Appeals in District Court are limited to hearings under the substantial evidence rule.*

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**ADOPTED on this 20<sup>th</sup> day of December, 2006.**

**BUILDING AND STANDARDS COMMISSION**

\_\_\_\_\_  
Chairman, Panel **B**

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Roberta B. Cross  
Assistant City Attorney

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Bill Stern, C.B.O., Chief Building Inspector  
Development Services Department  
Building Permits & Inspections Division