

# 1407 MONTANA



BUILDING AND STANDARDS BOARD AGENDA ITEM # 3 FOR  
WEDNESDAY, OCTOBER 31, 2012

ENVIRONMENTAL SERVICES DEPARTMENT  
CODE COMPLIANCE DIVISION

**MEMORANDUM**

October 10, 2012

TO: The Honorable Chairman and Board Members

THROUGH: Kurt Fenstermacher, Deputy Director, Environmental Services Department

FROM: Bill Stern., Deputy Building Official

SUBJECT: 1407 Montana Avenue, El Paso, Texas 79902-5617

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

- 1) First investigated on September 30, 2010 and revisited on October 10, 2012. This multistory structure was built in 1908, constructed of brick with stucco finish and a wood framed roof structure. Attempts to maintain the structure secure have become unsuccessful. The structure was found accessible to vagrants. The structure consists of exposed wood and metal framing due to an abandoned construction project. The roof and ceiling assembly system is in disrepair throughout the structure. The remaining walls are full of graffiti and holes. There are signs of settlement on the deck that is beginning to detach from the structure. There are weeds, trash and debris throughout the property.
- 2) A certified condemnation letter was mailed to John Lee.
- 3) Certified notices of the public hearing scheduled for October 31, 2012, were mailed to the owners and all interested parties on October 11, 2012.
- 4) As of October 10, 2012, \$2,437.75 in current 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 structure's certificate of occupancy be revoked; and
- 4) That the structure can be rehabilitated; and
- 5) That the structure be secured within thirty (30) days, and maintained secure until repaired or demolished; 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  
May 3, 2012

**NOTICE OF VIOLATION**

John Lee  
1407 Montana Ave.  
El Paso, Texas 79902-5617

Re: 1407 Montana Ave.  
Blk: 70/71 Franklin Heights  
Lot: 7 & 8 & 42 & 43  
Zoned: A-2  
ENHS11-00339  
7108 2133 3932 6354 4217

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, Chapter 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 Chapter 2.38 of this 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 **1407 Montana Ave., El Paso, Texas, 79902** 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. The floors have not been maintained in a safe manner. [Sec. 304.1.1.9]
- b. The walls have not been maintained in a safe manner free of holes and cracks. [Sec. 304.6 & Sec.305.2]
- c. The roof structure has not been maintained free of defects that may cause leaks. [Sec. 304.7]
- d. The means of egress is/are inadequate and do not meet minimum code requirements. [Sec. 702.4]
- e. The plumbing system is inadequate and does not meet minimum code requirements. [Sec. 504.1]
- f. The electrical system is inadequate and does not meet minimum code requirements. [Sec. 604.3]
- g. The HVAC system is inadequate and does not meet minimum code requirements. [Sec. 603.1]
- h. The structure is open and accessible to unauthorized entry. [Sec. 301.3]
- i. The premises are full of weeds, trash, and debris [Sec. 302.1 & Sec. 302.4].
- j. 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]
- k. The repairs to the structural elements and/or service systems referred to in the previous sections must be completed within 30 days of your receipt of this letter. If, due to the scope and complexity of the work more time is needed, you must make this request to the Environmental Services Department, Code Compliance Division.

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 Chapter 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.

Kevin Harrell  
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, 2<sup>nd</sup> Floor, El Paso, Texas 79901

**DATE:** October 31, 2012

**TIME:** 5:30 p.m.

**PROPERTY:** 1407 MONTANA AVENUE, EL PASO, TEXAS also described as Lots 7, 8, 42 & 43, Block 70 (a/k/a Blocks 70 and 71), SECOND SUPPLEMENTAL MAP OF FRANKLIN HEIGHTS ADDITION, 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, John Lee, 10467 Aphonía Drive, El Paso, Texas 79904, 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 20<sup>th</sup> 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 May 3, 2012 an inspection of the Property was conducted by the Environmental Services Division and the following violations were identified:

- a. The floors have not been maintained in a safe manner. [Sec. 304.1.1.9]
- b. The walls have not been maintained in a safe manner free of holes and cracks. [Sec. 304.6 & Sec.305.2]
- c. The roof structure has not been maintained free of defects that may cause leaks. [Sec. 304.7]

- d. The means of egress is/are inadequate and do not meet minimum code requirements. [Sec. 702.4]
- e. The plumbing system is inadequate and does not meet minimum code requirements. [Sec. 504.1]
- f. The electrical system is inadequate and does not meet minimum code requirements. [Sec. 604.3]
- g. The HVAC system is inadequate and does not meet minimum code requirements. [Sec. 603.1]
- h. The structure is open and accessible to unauthorized entry. [Sec. 301.3]
- i. The premises are full of weeds, trash, and debris [Sec. 302.1 & Sec. 302.4].
- j. 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 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 Owner advocates 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  
CONTENT

APPROVED AS TO

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John R. Batoon  
Assistant City Attorney

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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 1407 Montana 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 1407 Montana Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

John Lee  
1407 Montana Avenue  
El Paso, TX 79902-5617

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Inspector: \_\_\_\_\_

I certify that a true and correct copy of the foregoing Notice regarding the property at 1407 Montana Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

John Lee  
10467 Aphonía Drive  
El Paso, TX 79904

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Inspector: \_\_\_\_\_

I certify that a true and correct copy of the foregoing Notice regarding the property at 1407 Montana 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 1407 Montana 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 1407 Montana 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 1407 Montana 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 1407 Montana Avenue 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 1407 Montana Avenue, El Paso, Texas.

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Inspector: \_\_\_\_\_



# UNSAFE STRUCTURES REPORT

## CODE COMPLIANCE DIVISION

**DATE OF EXAMINATION:** October 31, 2012

**REP. DISTRICT:** 8

**ADDRESS:** 1407 Montana Avenue

**ZONED:** A-2

**LEGAL DESCRIPTION:** Lots 7, 8, 42 and 43, Block 70 (a/k/a Blocks 70 and 71), SECOND SUPPLEMENTAL MAP OF FRANKLIN HEIGHTS ADDITION, an addition to the City of El Paso, El Paso County, Texas, according to the map thereof on file in Book 9, Page 63, Plat Records of El Paso County, Texas.

**OWNER:** John Lee

**ADDRESS:** 1407 Montana Avenue  
El Paso, TX 79901

**BUILDING USE:** Abandoned multistory structure

**TYPE OF CONSTRUCTION:** Type V, masonry and brick

**FOOTINGS:** Concrete

**CONDITION:** Unable to determine condition, footings are underground and must be evaluated by an engineer to determine actual condition.

**FOUNDATION WALL:** Combination of masonry rock, CMU and concrete with mortar grout.

**CONDITION:** Poor. Showing signs of deterioration due to lack of maintenance.

**FLOOR STRUCTURE:** 2 x 8 wood covered with plywood

**CONDITION:** Poor. The floor systems contain several holes and are deteriorated due to lack of maintenance. A structural engineer should be hired to evaluate the actual condition.

**EXTERIOR WALLS:** Brick covered by stucco and unfinished wood framed addition w/sheetrock covering.

**HEIGHT:** 25' +/-

**THICKNESS:** 10" +/-

**CONDITION:** Poor. Some structural deficiencies were found. The sheetrock on the unfinished addition contains many holes and is deteriorated due to exposure to the elements and vandalism. A structural engineer should be hired to evaluate structural elements of the buildings.

**INTERIOR WALLS & CEILINGS:** Metal framing and 2 x 4 wood studs covered with sheetrock and plaster in some areas.

**CONDITION:** Poor. Most of the wall coverings have been removed exposing the wood and metal framing. The few remaining walls are full of graffiti.

**ROOF STRUCTURE:** Wood framing covered w/composition shingles.

**CONDITION:** Poor. The roof system is deteriorated due to lack of maintenance and exposure to the elements and does not exist in the rear of the structure. A licensed roofing contractor in the state of Texas should be hired to evaluate the roofing system.

**DOORS, WINDOWS, ETC.:** Wood frame and metal frame windows, wood doors some w/wrought iron guards.

**CONDITION:** Poor. Several windows are broken due to vandalism and most glass needs to be replaced. Doors need to be replaced.

**MEANS OF EGRESS:** No exit stairs at rear second floor.

**CONDITION:** Poor.

**PLUMBING:** Poor. A licensed plumbing contractor must be hired to evaluate the entire plumbing system and submit a report to this department on the corrective action required to bring the system up to minimum code compliance.

**ELECTRICAL:** Poor. A licensed electrical contractor must be hired to evaluate the entire electrical system and submit a report to this department on the corrective action required to bring the system up to minimum code compliance.

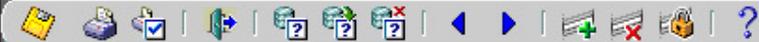
**MECHANICAL:** Poor. A licensed mechanical contractor must be hired to evaluate the entire mechanical system and submit a report to this department on the corrective action required to bring the system up to minimum code compliance.

**IF CONDEMNED, HOW MANY PERSONS WILL BE AFFECTED:** None

**WARNING POSTED:** Yes    **BARRICADED:** No    **POLICE AID REQD.:** No

**REMARKS:** The open and abandoned multistory structure was built in 1908. Efforts to maintain the structure secure have become unsuccessful and entry by vagrants continues. The division recommends that the property be secured until repaired or demolished. That the property be cleaned of all weeds, trash and debris within thirty (30) days.

Wayne Fannin  
Building Combination Inspector



Account Status

Prev\_Acc... Next\_Acc... Prev\_Owner Next\_Owner Acct\_History Acct\_Summary **Notes**

Go To:

EVAR  
ACT8006 v1.225

10/10/2012 12:12  
ACTEP

STATUS DETAIL **Expand Fees** Summary

**Account Information**

Account No. **F607-999-0700-1500** Roll Code REAL PROPERT

Certified Owner LEE JOHN

Parcel Address 1407 MONTANA AVE

Amount Due as of 10/10/2012 CAD No. 206669

**Tax Units**

Tax Unit Description

List of Tax Units

1 3 6 7 8 8001

AG INCLUDED Remove Fees Countywide

**Tax Unit, Yr, Rec. Type**

Tax Unit

Year

Rec. Type

**Multi Select**

**Amount Due/Paid Information**

Year	Gross Value	H	O	V	D	Base Levy	Paid Levy	Write-Off	Remaining Levy	Fees	Refund	Amount Due
2012	\$93,446					\$2,437.75	\$0.00	\$0.00	\$2,437.75	\$0.00	\$0.00	\$2,437.75
2011	\$92,634					\$2,373.66	\$2,373.66	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2010	\$92,634	Y		2		<b>Exemption</b> \$1,927.62	\$1,927.62	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2009	\$102,439	Y		2		<b>Exemption</b> \$2,131.44	\$2,131.44	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2008	\$108,609	Y		2		<b>Exemption</b> \$2,292.48	\$2,292.48	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2007	\$108,609	Y		2		<b>Exemption</b> \$2,314.95	\$2,314.95	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2006	\$100,641	Y		2		<b>Exemption</b> \$2,447.61	\$2,447.61	\$0.00	\$0.00	<b>Fees</b> 09	\$0.00	\$0.00
2005	\$105,113					\$3,282.07	\$3,282.07	\$0.00	\$0.00	\$1,432.31	\$0.00	\$0.00
2004	\$128,332					\$3,986.26	\$3,986.26	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Totals</b>						<b>\$42,393.20</b>	<b>\$39,955.45</b>	<b>\$0.00</b>	<b>\$2,437.75</b>	<b>\$1,983.01</b>	<b>\$0.00</b>	<b>\$2,437.75</b>

Last Payment Date  Last Payer  **Alert**