

1 ATKINSON



**BUILDING AND STANDARDS BOARD AGENDA ITEM #7 FOR
WEDNESDAY, NOVEMBER 28, 2012**

**ENVIRONMENTAL SERVICES DEPARTMENT
CODE COMPLIANCE DIVISION**

MEMORANDUM
November 19, 2012

TO: The Honorable Chairman and Board Members

THROUGH: Kurt Fenstermacher, Deputy Director, Code Compliance
Department

FROM: Bill Stern, C.B.O., Deputy Building Official

SUBJECT: 1 Atkinson Way, El Paso, Texas, 79915

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

- 1) First investigated on June 27th, 2012, the structure was found in a state of disrepair. According to Central Appraisal records this single family dwelling was built in 1950, constructed of brick veneer over wood frame and a wood framed roof covered with composition shingles. The garage was converted into habitable living space without the required permits and does not meet minimum building codes. The walls are not properly fire rated due to holes and penetrations. The bedroom windows have bolted wrought iron guards which are padlocked and pose a safety hazard to the future occupants. There are weeds, trash and debris throughout the property. The structure was found to be open and abandoned to unwanted persons.
- 2) A certified condemnation letter was mailed to Sam E and Rogelia Bailey.
- 3) Certified notices of the public hearing scheduled for November 28th, 2012, were mailed to the owners and all interested parties on November 7th, 2012.
- 4) As of November 12th, 2012, \$1,174.38 is owed in taxes

The owner has been notified of the property violations at this property. To date, there has been no response or corrective action taken, and therefore the Department recommends that it be found:

- 1) That the structure be condemned as 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 and maintained secure within thirty (30) days; and
- 6) That the premises be cleaned and maintained clean of all weeds, trash, and debris within (30) days; and
- 7) That the accessory structure be demolished within (30) days; and

- 8) 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
July 25, 2012

NOTICE OF VIOLATION

Sam E & Rogelia Bailey
1 Atkinson Way
El Paso, Texas 79915-2619

Re: 1 Atkinson Way
Blk: 3 Rosedale Farms #5
Lot: 4
Zoned: R2
ENHS12-00445
7108 2133 3932 6909 1531

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 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 **1 Atkinson Way, El Paso, Texas 79915** 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. 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]
- d. 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.

Nathan Walsh
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: November 28th, 2012

TIME: 5:30 P.M.

PROPERTY: 1 Atkinson Way, Lot 4, Block 3, Rosedale Farms No. 5, an addition to the City of El Paso, El Paso County, Texas, according to the map or plat thereof recorded in Volume 14, Page 1, Plat Records of 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, FNMA (Federal National Mortgage Association, aka Fannie Mae) are the owners, 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 or about July 25nd, 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. 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]
- d. 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]
- e. 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.

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
CONTENT

APPROVED AS TO

John Batoon
Assistant City Attorney

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

Enclosures:

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 1 Atkinson Way, El Paso, TX 79915 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 1 Atkinson Way, El Paso, TX 79915, was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

FNMA (Federal National Mortgage Association, aka Fannie Mae)
2727 Spring Creek Dr
Spring, Texas 77373

Date: _____

Time: _____

Inspector: _____

I certify that a true and correct copy of the foregoing Notice regarding the property at 1 Atkinson Way, El Paso, TX 79915, was HAND-DELIVERED to:

City of El Paso
C/O City Clerk
#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 1 Atkinson 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 1 Atkinson 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 1 Atkinson Way, El Paso, TX 79915, 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 1 Atkinson 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 1 Atkinson Way, El Paso, TX 79915, El Paso, Texas.

Date: _____

Time: _____

Inspector: _____



UNSAFE STRUCTURES REPORT

BUILDING PERMITS AND INSPECTIONS

DATE OF EXAMINATION: 06-27-12

REP. DISTRICT: 3

ADDRESS: 1 Atkinson Way

ZONED: R-2

LEGAL DESCRIPTION: 3 Rosedale Farms #5 Lot 4 (11296 SQ FT)

OWNER: Bailey Sam E & Rogelia

ADDRESS: 1 Atkinson Way, El Paso, TX

BUILDING USE: Abandoned single family dwelling with accessory structure.

TYPE OF CONSTRUCTION: V, wood frame with brick veneer.

FOOTINGS: Concrete

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

FOUNDATION WALL: Concrete

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

FLOOR STRUCTURE: Majority of floor structure is composed of tongue and groove wood flooring.

CONDITION: In need of maintenance.

EXTERIOR WALLS: Brick veneer over wood framing.

HEIGHT: 13' +/-

THICKNESS: 8" +/-

CONDITION: In need of repair

INTERIOR WALLS & CEILINGS: Sheetrock and wood paneling over wood frame.

CONDITION: In need of repair, holes noted throughout.

ROOF STRUCTURE: Wood framing trusses covered with composition shingles.

CONDITION: Poor. Due to lack of maintenance and exposure to the elements signs of leakage were noted. A licensed roofing contractor in the state of Texas should be hired to evaluate the roofing system.

DOORS, WINDOWS, ETC.: Wood framed doors with metal framed windows.

CONDITION: Poor, doors in need of maintenance and windows in need of repair.

MEANS OF EGRESS: Rear door.

CONDITION: Unsecured to unwanted entry.

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: 0

WARNING POSTED: Y

BARRICADED: N

POLICE AID REQD.: N

REMARKS: Open and abandoned single family dwelling was constructed in 1950. It is a wood framed structure with brick veneer siding and wood framed roof with composition shingle covering. The structure was found to be opened and abandoned with signs of disrepair on the interior walls and ceiling due to roof leaks resulting from lack of maintenance on roof. This property can be rehabilitated. The department recommends the property be secured within (30) days and the property cleaned of weeds trash and debris within (30) days. The accessory structure that is open to unwanted persons be demolished within (30) days.

Nathan J. Walsh

Building Inspector

Account Status

Prev. Acc... Next Acc... Prev. Owner Next Owner Acct History Acct Summary **Notes** Go To:

EVAR ACT8006 v1.225 11/12/2012 11:26 ACTEP

STATUS DETAIL **Expand Fees** Summary

Account Information

Account No. **R766-999-0030-1900** Roll Code **REAL PROPERTY**

Certified Owner **BAILEY SAM E & ROGELIA**

Parcel Address **1 ATKINSON WAY**

Amount Due as of **11/12/2012** CAD No. **331473**

Tax Units

Tax Unit Description

List of Tax Units

1 5 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	Exemption	Base Levy	Paid Levy	Write-Off	Remaining Levy	Fees	Refund	Amount Due
2012	\$103,459	Y	Y			Exemption	\$1,174.38	\$0.00	\$0.00	\$1,174.38	\$0.00	\$0.00	\$1,174.38
2011	\$104,476	Y	Y			Exemption	\$1,151.72	\$1,151.72	\$0.00	\$0.00	\$80.61	\$0.00	\$0.00
2010	\$104,476	Y	Y			Exemption	\$1,131.86	\$1,131.86	\$0.00	\$0.00	\$236.41	\$0.00	\$0.00
2009	\$105,526	Y	Y			Exemption	\$1,050.05	\$1,050.05	\$0.00	\$0.00	\$114.68	\$0.00	\$0.00
2008	\$111,534	Y	Y			Exemption	\$940.32	\$940.32	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2007	\$102,953	Y	Y			Exemption	\$859.76	\$859.76	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2006	\$82,274	Y	Y			Exemption	\$855.88	\$855.88	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2005	\$69,019	Y	Y			Exemption	\$901.04	\$901.04	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2004	\$66,801	Y	Y				\$871.06	\$871.06	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Totals							\$13,930.58	\$12,756.20	\$0.00	\$1,174.38	\$431.70	\$0.00	\$1,174.38

Last Payment Date

Last Payer

Alert